



CITY OF AUSTIN

OFFICE OF THE POLICE



AUSTIN  TEXAS

2015 ANNUAL REPORT

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» The Office of the Police Monitor

Mission and Objectives

The Office of the Police Monitor (OPM) is the primary resource for accepting and filing complaints brought by the general public against officers of the Austin Police Department (APD). The OPM also monitors the investigation of complaints within APD (i.e., internal complaints by one officer concerning the conduct of another officer). The OPM seeks to educate the community and law enforcement through its outreach efforts and promote the highest degree of mutual respect between police officers and the public. By engaging in honest dialogue over issues and incidents that impact the community and law enforcement, the OPM's goal is to enhance public confidence, trust, and support in the fairness and integrity of the APD.

The duties of the Office of the Police Monitor include:

- Assessing complaints involving APD officers;
- Monitoring the APD's entire process for investigating complaints;
- Attending all complainant and witness interviews;
- Reviewing the patterns and practices of APD officers;
- Making policy recommendations to the chief of police, city manager, and city council; and
- Assisting the Citizen Review Panel (CRP) in fulfilling its oversight duties.

How the Process Works

Complaint Specialists from the OPM are tasked with addressing allegations of police misconduct or concerns raised by the public. Complaints are taken via telephone, e-mail, facsimile, and mail. The public may also visit the OPM at any time during the business day in order to speak with a Complaint Specialist in person or may visit after business hours through special appointment. Given that the duties of the Complaint Specialist often require them to be out of the office, it is best for the public to call ahead to schedule a time and date. The OPM is readily accessible to physically challenged, hearing impaired, and non-English speaking complainants.

When a complaint is received by the OPM, a Complaint Specialist conducts a preliminary interview with the complainant to gather the relevant facts and ascertain whether a possible violation of policy exists. During this consultation, the complainant is made aware of the avenues available to him/her.

The avenues are:

- 1) **Filing a Formal complaint** – this is the most serious of complaints and is investigated by the Internal Affairs Division (IAD) or by a chain of command;

- 2) **Filing a Supervisor Referral** – this is a less serious complaint handled by the officer’s chain of command;
- 3) **Mediation** – an opportunity for the complainant to be in a neutral location with the officer and a mediator in order to discuss areas of concern or issues with how the officer treated the complainant.

When a person has an issue with an APD officer they would like addressed, they typically file a “Supervisor Referral” or opt to file a “Formal” complaint. As noted, mediation is also an option, but the result of this will not appear in an officer’s personnel file. Additionally, if the mediation option is chosen, the officer will not be subject to discipline unless the officer fails to show up for the mediation session.

In situations where it appears clear no policy violation will be found, the Complaint Specialist educates and informs the complainant about the particular APD policies and procedures, known as Lexipol,¹ applicable to the complainant’s situation.

Supervisor Referrals

Supervisor Referrals (SRs) are commonly used for less-severe policy violations, such as allegations of discourtesy or rudeness, or a disagreement about the level of police services. The Supervisor Referral is suitable for those complainants who do not wish to go through the Formal complaint process and would like a faster result. Many people use this course of action because they want to make the department aware of an unpleasant interaction with an officer, but do not wish to file a Formal complaint.

The Complaint Specialist gathers the information from the complainant and forwards this information to the IAD. IAD will then forward the Supervisor Referral to the involved officer’s chain of command. From this point, a supervisor (usually the immediate supervisor) conducts an inquiry to gather the facts, including the officer’s version of the incident, to better ascertain the nature of the complaint. During this stage, if the immediate supervisor or the IAD commander determines that a more serious infraction has occurred, a Formal Internal complaint may be initiated by IAD or by the officer’s chain of command. The supervisor may also address the issue with the officer through counseling, training, or a reprimand. In most cases, the complainant opts to be contacted by the officer’s immediate supervisor to discuss the matter at greater length and to achieve a degree of closure on the issue. At any time during the Supervisor Referral process, the complainant may opt to file a Formal complaint.

¹ All APD policies and procedures are outlined in the APD Policy Manual known as “Lexipol.” The guidelines, rules, and regulations are set forth by the Chief of Police and govern the day-to-day activities of the Austin Police Department.

Formal Complaints

There are two types of Formal complaints – Internal and External. The difference between internal and external cases is:

- **Internal** – complaints filed by an APD officer, typically a member of the officer's chain of command, regarding the conduct of another APD officer;
- **External** – complaints filed by a member of the public regarding the conduct of an APD officer.

Regardless of whether the complaint is Internal or External, the Formal complaint process is designed to register complaints, review the matter, and, if appropriate, have an investigation conducted by IAD or by the chain of command.

The process begins when an external complainant indicates they want to use the Formal complaint process. After a brief explanation of the process, a statement is taken by the Complaint Specialist via dictation from the complainant onto an official affidavit form. The interview is tape recorded and the complainant is given an opportunity to review the statement and make any corrections that are necessary. In some cases, the complainant chooses to prepare his/her own statement on the official affidavit form. Once the complainant is in agreement with the statement, the complainant then signs the statement before a notary (all Complaint Specialists are notaries) to comply with state law which requires an External Formal complaint to be sworn to before a notary. The Complaint Specialist then submits the paperwork to IAD. A copy of the completed affidavit form is provided to the complainant if one is requested. Please note that any complaint may be filed anonymously if the complainant wishes.

The Complaint Specialist will notify the complainant through an OPM letter of the classification of the investigation as well as the name of the investigator assigned to the matter. The Complaint Specialist attends all complainant, witness, and involved officer interviews. During the investigation, the Complaint Specialist will monitor the investigation and provide input to IAD in an effort to ensure a fair and thorough investigation. At the end of the investigation, IAD will prepare an investigative summary which the OPM reviews. The Complaint Specialist reviews the entire file upon its completion and forwards comments, concerns, or issues about the case to the Police Monitor. The Police Monitor may make recommendations to the chief of police and/or the chain of command regarding whether an allegation should be sustained and the appropriate discipline, if any.

The complainant is given the results of the investigation in writing. The written documentation of the underlying investigation (i.e., statements, documentary evidence, etc.) is not given to the complainant due to civil service limitations on what can and cannot be provided. If the complainant is not satisfied with the investigation, the complainant may choose to have the matter presented to the Citizen Review Panel

(CRP). The CRP is a volunteer group of seven citizens that meet at least once a month. The CRP meets to hear cases in dispute as brought by either the complainant or the OPM or to discuss oversight issues. If a complainant chooses to utilize the CRP to hear their case, they are given ten (10) minutes during the public portion of the meeting to outline their issues with APD and/or the outcome of the investigation. The CRP may ask clarifying questions of the complainant during this time. Afterwards, the CRP will meet in a private executive session to deliberate on the actions to take, if any. The CRP may make recommendations on policy and/or training to the chief of police or choose to make no recommendations. The CRP may also request that the case be investigated further. If the case involves a critical incident, in addition to the actions the CRP may take in any case, the CRP may make a recommendation to the chief of police as to whether the officer violated policy and may recommend discipline. The decision to sustain or not sustain the allegation and/or administer discipline is within the province of the chief of police.

Mediation

Mediation is a third option available to a complainant. Lexipol Policy 902.6.5, Mediation, went into effect in April 2014. The policy clearly outlines the provision of mediation for resolving select external, Class B complaints—rudeness, profanity, belittling and inadequate police services. The policy revision sets forth timelines for utilization, identifies a mediation coordinator through the Office of the Police Monitor and names the Dispute Resolution Center as the third party mediation service provider.

Mediation is designed to provide the complainant an opportunity to be in a neutral location with the officer and a mediator. The use of this process brings the officer and the complainant together with a neutral third-party in order to air and, hopefully, resolve their issues. If the mediation option is used, the complainant cannot opt for a Formal complaint once the mediation process has concluded regardless of the outcome. In addition, the nature of the complaint itself must reach the level of a class “B” investigation in order for the mediation process to be utilized. This option will not result in any discipline for the involved officer (or officers) and will not be placed in the officer’s personnel record.

Mediations take place at the Dispute Resolution Center (DRC) which is located inside the Chase Bank building at Capital Plaza. Mediation sessions are facilitated by volunteer mediators. The mediation sessions between the APD officers and complainants do not normally yield any written agreements between the parties. The sessions are also not audio or video recorded. Information shared in the mediation session is confidential. Nothing in the course of the mediation session can be used at a later date or time in any court matter or civil proceedings.

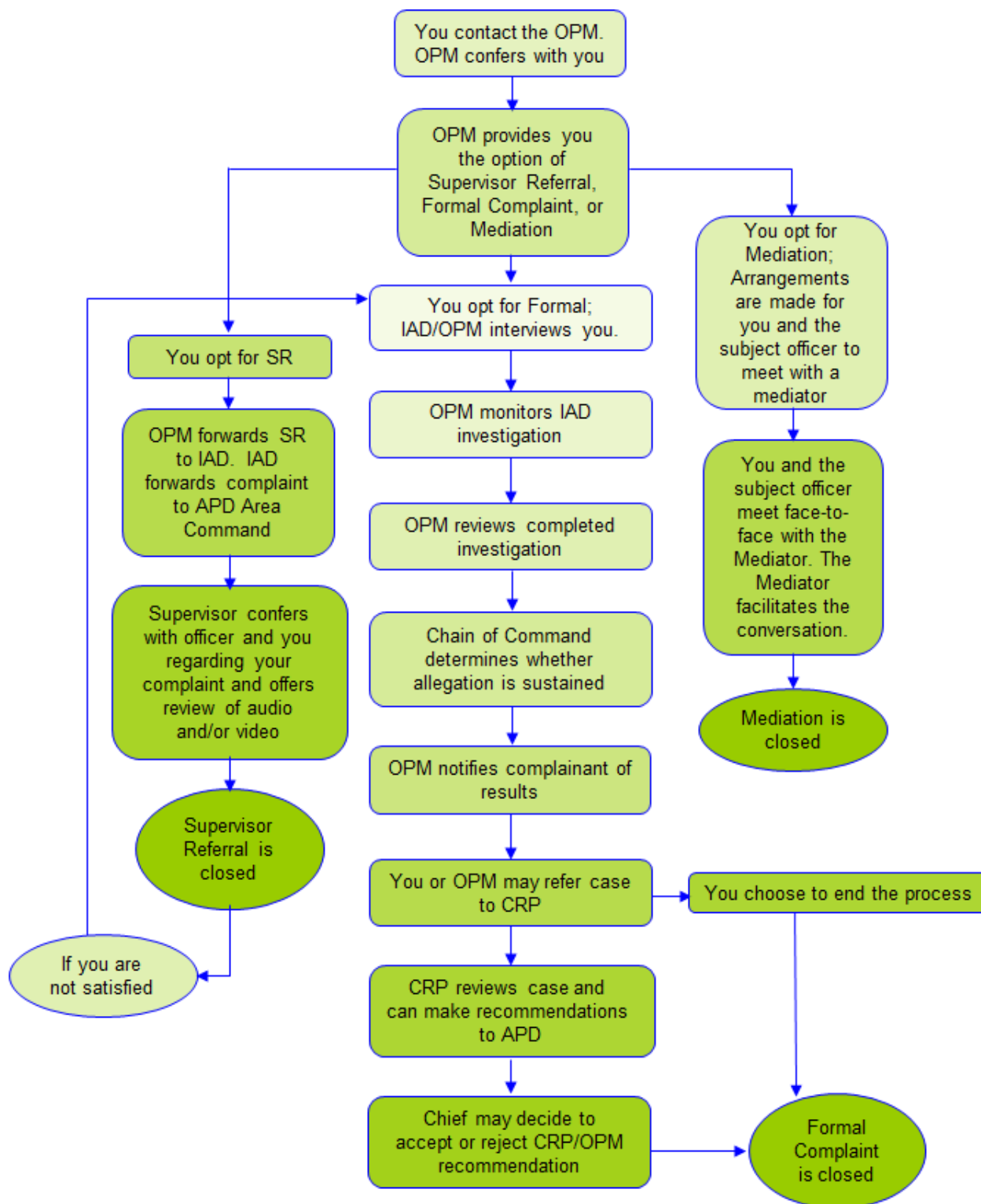
Unlike typical mediation, the parties are not required to make any offers in compromise and are not asked to work toward an equitable resolution of their differences. The APD Lexipol policy only requires that the parties participate in a respectful and productive conversation related to the complaint. Neither party is required to admit any wrongdoing or make any apologies for their actions. The parties may, however, after talking to one another and hearing the other's perspective, extend an apology. Complaints that are mediated cannot be returned to IAD for investigation.

With strong support from the Austin Police Association and the Austin Police Department, the Office of the Police Monitor hopes that the citizens of Austin and Austin police officers will avail themselves to mediation as a complaint resolution option.

To file a complaint with the OPM, an individual may contact the office in person, by telephone at (512) 974-9090, by facsimile at (512) 974-6306, by e-mail at police.monitor@austintexas.gov, or by mail. The office is located in the City of Austin Rutherford Complex at 1520 Rutherford Lane, Bldg. 1, Suite 2.200A, Austin, TX 78754. The mailing address is: PO Box 1088, Austin, TX 78767.

For more information, including a full copy of this report, please visit the OPM website at <http://www.austintexas.gov/departments/police-monitor>.

Figure 1. OPM Complaint Process



OPM: Office of the Police Monitor **APD:** Austin Police Department **IAD:** Internal Affairs Division

SR: Supervisor Referral **CRP:** Citizen Review Panel **DRB:** Disciplinary Review Board

Section 1: 2015 Serious Incident Review

While there were many types of complaints brought throughout 2015, below is a brief summary of the more serious cases. When determining the type and severity of discipline to be administered to an officer, the APD consults its Discipline Matrix. The Matrix is attached in Appendix B. The Matrix serves as a guideline when assessing discipline on sustained allegations. Different policy violations carry different discipline; discipline becomes more severe if an officer has violated a particular policy more than once.

The cases are presented in chronological order.

In the early morning hours of January 23, 2015, officers responded to a 911 call for help regarding a family disturbance. Several officers responded to the call and subsequent vehicle pursuit involving the subject. The pursuit terminated after police placed spike strips in the road and the subject lost control of his vehicle. The subject exited the vehicle with a handgun in his hand. The subject did not respond to an officer's orders to drop the weapon. One officer discharged his duty weapon. The subject died as a result of the shooting. The internal investigation determined that the force used by the officer was objectively reasonable and the investigation was Administratively Closed. The officer was also not billed by the Travis County Grand Jury. The Office of the Police Monitor (OPM) made a recommendation that the APD use this case as a training opportunity. Specifically, the CRP recommended the APD look at how SWAT, Mental Health officers and negotiators are utilized when responding officers receive information that a person is displaying behaviors and/or symptoms of a mental health disorder, including suicidal/homicidal ideations. The CRP recommended that officers take measures to provide basic first aid following a use of force that results in injury to a subject. The CRP further recommended that five (5) officers, some of whom were not responding to this call, receive corrective counseling regarding their speed as well as other driving-related issues both before and after the suspect was announced "down." (Case Number 2015-0085)

On February 7, 2015, 311 received a call stating a male was outside shooting a .22 rifle at street lamps. There was also a call via 911 stating the same male had fired a couple of different weapons and was in the street with a rifle. Patrol officers arrived on scene and heard several gunshots coming from the area. The Austin Police Department (APD) helicopter, Air 1, was requested and observed a male standing outside a house. The

male discharged multiple rounds at Air 1 upon its arrival. The APD Special Weapons and Tactics (SWAT) team was requested to assist due to the threat the subject presented by firing rounds at Air 1 as well as patrol officers on the ground not being able to see the subject. A SWAT officer was deployed in a sniper capacity and with the use of night vision, located the subject carrying a rifle. The officer observed the subject with a scope-equipped rifle actively engaging Air 1. The SWAT officer fired a single shot which struck and fatally wounded the subject. The internal investigation determined that the force used by the officer was objectively reasonable and the investigation was Administratively Closed. The officer was also not billed by the Travis County Grand Jury. (2015-0141).

On May 24, 2015, officers responded to an apartment complex from which several calls to 911 had been placed regarding an individual that was loitering around the buildings, knocking on doors and looking for a particular acquaintance. The suspect had made his way to a building where the acquaintance could possibly be located. As the suspect made his way up a stairwell, he encountered the mother of the person for whom he was looking. The mother denied any knowledge of the person or residence where she could be found. The suspect continued up the stairs to the apartment and began knocking and pulling on the door.

Officers responded to the complex and gathered at the entrance before searching the grounds. Three of the officers made their way to the possible suspect location and observed him on the second story of the building trying to gain entrance into an apartment. The officers shouted verbal commands at the suspect to back away and show his hands. The suspect turned toward the officers but did not release his grip on the apartment door knob. More commands were given to the suspect to show his hands. At one point the suspect turned his back to the officers while appearing to the officers to be reaching into his waistband. Two of the three officers discharged their weapons striking the suspect multiple times. Other officers arrived on scene and tactical shields were used to provide cover for the other officers to move in and take the suspect into custody. A firearm was located in close proximity of the suspect and toxicology reports show that he was heavily intoxicated. The suspect survived his wounds. The internal investigation determined that the force used by the two officers was objectively reasonable and the investigation was Administratively Closed. (2015-0467)

On May 25, 2015, a 911 call was placed by the boyfriend of a female stating that she was in a state of distress. Information provided by the boyfriend indicated that she planned to harm herself and was possibly armed. SWAT was notified and responded to the apartment complex and made contact with the resident via a certified negotiator. The

negotiator and the resident spent several hours in contact and at different times the suspect came out to taunt the officers. At one point SWAT officers had made it to the front door of the suspect's apartment and when she exited the apartment, less lethal beanbag rounds were fired at her but missed. After several more attempts to have the female comply with requests to disarm, the female came out of her apartment with a firearm and again taunted the officers by pointing it at them. At that point, a SWAT officer who was positioned in the immediate vicinity of the suspect's front door fired his weapon mortally wounding her. The Citizen's Review Panel (CRP) made two recommendations on this case. One was to define more effective methods to de-escalate situations such as this one. The second was for the APD to look for ways to apply a measured use of force and to balance that with de-escalation methods. The CRP made one additional more generic recommendation. It was that the IAD should make attempts to interview all key witnesses to such an event, not just interview APD officers. The internal investigation determined that the force used by the officer was objectively reasonable and officer was exonerated of all allegations. The officer was also not billed by the Travis County Grand Jury. (2015-0464)

On June 8, 2015, the Internal Affairs Division (IAD) of the Austin Police Department (APD) received an internal complaint alleging that an officer had violated a Do Not Discuss order he received from IAD. It was alleged that the officer had spoken to a witness throughout an investigation and that the conversations with the witness led to a disturbance in which the local law enforcement agency was called. The law enforcement agency that responded wrote a police report concerning the disturbance. The IAD investigation resulted in a sustained allegation of Insubordination. The officer was Indefinitely Suspended. The OPM agreed with the final disposition of the investigation and the APD's disciplinary action. (Case Number 2015-0512)

On July 5, 2015, 911 received a call from a male in distress indicating that he wanted to harm himself. The dispatcher spent several minutes on the line with the suspect while officers were en route to his location. The suspect stated to the dispatcher that he did not want a police response and became agitated when he became aware of police in the area. Three officers responded and after doing a cursory search of the property, one of the officers looked inside the house and could see that the suspect was armed and bleeding. The officers took cover and shortly afterward the suspect came out of the house with a phone and a weapon in his hands. The officers gave the suspect verbal commands to drop the weapon and show his hands. The suspect made no acknowledgement to the officers and returned inside. The officers repositioned themselves and when the suspect came out a second time, he sat on the porch with his legs crossed, his head leaning against the wall, with what the officers believed to be a firearm in his lap. One of the officers made it to the porch and fired his Taser at the

suspect in an attempt to disarm him. The Taser was ineffective causing the suspect to lurch towards, or for, his weapon prompting all three officers to fire their weapons striking the suspect and mortally wounding him. As it turned out, the suspect was holding a BB gun. The CRP made eight (8) recommendations regarding this case. They are:

1. APD should define, develop and train more effective methods to de-escalate situations such as in this case.
 2. The APD should review and revise as necessary policies and protocols that deal with communications and coordination among responding officers when multiple officers respond to the same call for service.
 3. When there is no shift sergeant on duty and a corporal is in charge and handling supervisory duties, he or she should not have more than one shift to supervise.
 4. When a corporal is supervising a shift, area command lieutenants and watch commanders should be more closely monitoring activities of that shift.
 5. The APD should review and revise its policies, practices, procedures and protocols for incidents when known individuals have had prior involvement with CIT, mental health providers or similar organizations so that appropriate mental health intervention is provided as a means to de-escalate the situation.
 6. The APD and the 911 communications center should develop or revise its mental health protocols checklist that would require dispatchers and patrol officers to immediately call for an MHO, CIT and/or EMS when it is determined that an EDP is involved in the incident.
 7. The APD should review and revise its civilian rider program to consider how much experience an officer should have prior to having civilian riders in their patrol cars, and consider if there should be restrictions on ride-along passengers based on the relationship between a patrol officer and a civilian rider, such as family members, friends and significant other that should be included in policy.
 8. The officer's action of charging an armed individual rather than continuing to de-escalate the situation and remain behind cover, thereby placing him in the possible line of fire from fellow officers, should be considered for reprimand.
- There was little risk to officers until this unilateral action was taken.

The internal investigation determined that the force used by the three officers was objectively reasonable and the investigation was Administratively Closed. The officers were also not billed by the Travis County Grand Jury. (2015-0599)

On July 5, 2015, officers responded to a call of an active shooter at a downtown hotel. Upon arrival, the officers found a body in the hotel lobby that appeared to have at least

one gunshot wound. An APD officer located the gunman inside the hotel and a foot chase ensued. Gunfire was exchanged between the subject and the officer. Ultimately, the subject was shot and fatally wounded by the pursuing officer. The CRP commended the officer's actions in this case. The internal investigation determined that the force used by the officer was objectively reasonable and the investigation was Administratively Closed. The officer was also no billed by the Travis County Grand Jury. (2015-0600)

On July 11, 2015, two officers were responding to a disturbance call involving a vehicle. Once the vehicle in question was located, officers noted it had blood on it. When officers attempted to speak to the registered owner about the vehicle, the subject fled on foot into a wooded area. He emerged from the wooded area with a gun and was subsequently fatally shot by one of the officers. The internal investigation determined that the force used by the officer was objectively reasonable and the investigation was Administratively Closed. The officer was also no billed by the Travis County Grand Jury. (2015-0614)

Section 2: Executive Summary

The Office of the Police Monitor's (OPM) annual report is presented to the public as a means to provide transparency into the Austin Police Department's (APD) complaint investigative process. This report reviews behavior patterns of APD officers and makes policy recommendations. Below are some of the key findings from the 2015 reporting year.

- In 2015, 1,134 persons (Internal & External) contacted the OPM or the APD's Internal Affairs Department (IAD) wishing to file a complaint against one or more members of the APD. This was an increase of 2% (18 contacts/complaints) from 2014. Of these contacts, a little less than half of those who reached out to either the APD or the OPM (552 of the 1,134) actually resulted in some type of complaint being filed.
- There were 280 Formal complaints filed in 2015 – 64 External Formal complaints and 216 Internal Formal complaints. In aggregate, this was a total increase of less than 1% (3 cases) from the number filed in 2014. There were 3 fewer External Formal complaints (↓ 1%) and 6 more Internal Formal complaints (↑ 3%).
- The total number of Supervisor Referrals monitored by the OPM was down in 2015 to 272 complaints, a decrease of 11% (33) from 2014.
- When combining the two types of external complaints, there was a decrease of 10% (36 total complaints) in 2015 versus 2014.
- Caucasians continue to file the most complaints overall and only filed one less Supervisor Referral in 2015 than they did in 2014. Caucasians make up the majority of the voting age population within the City of Austin. This group filed formal complaints at a rate 19% less than their representation in the population.
- Blacks/African Americans filed 11 fewer Supervisor Referrals in 2015 and three (3) fewer External Formal complaints. Blacks/African Americans make up 8% of the population but filed 28% of the External Formal complaints in 2015, meaning they filed at a rate that is 21% higher than their representation in the population.
- Hispanic/Latinos filed 14 External Formal complaints in 2015. This was an increase over 2014 by eight (8) cases. Hispanics/Latinos filed External Formal complaints at a rate 9% lower than their representation in the Austin voting age population.
- Caucasians were stopped 4% less than their representation of the voting age population.
- Blacks/African Americans were stopped at a rate 5% above their representation within the City of Austin's population.

- Hispanics/Latinos were stopped at a rate basically on par with their representation in the population.
- The largest disparity between stops and the voting age population within any racial/ethnic group is, again, amongst the Black/African American group as it has been since the OPM starting reporting it.
- In October of 2016, the Center for Policing Equity/Urban Institute released a report entitled, *The Science of Policing Equity*. This report also cited that while there were fewer vehicle stops for Black/African American drivers, a higher proportion of Black/African American drivers were stopped than Hispanic/Latino or Caucasian drivers.
- The Center for Policing Equity/Urban also found that among stops resulting in a citation or arrest, Black/African American drivers were stopped at a higher rate when the stop was officer-initiated than those that were citizen- initiated.
- Caucasians accounted for 50% of the stops and 31% of the searches.
- Blacks/African Americans accounted for 12% of the stops and 24% of the searches.
- Hispanics/Latinos accounted for 31% of the stops and 43% of the searches.
- Despite being searched the greatest number of times in 2015, Hispanics/Latinos had a 1 in 9 chance of being searched after being stopped. This has remained constant for the past three years.
- Blacks/African Americans had a 1 in 7 chance of being searched if stopped. This was 1 in 6 in both 2013 and 2014.
- In the 2016 *Science of Policing Equity* report, the researchers noted that when looking at searches *not* incidental to arrest, search rates were highest for stopped Black/African American drivers. They reported these data by month and found that at its highest in 2015, Black/African American drivers were searched in every one out of three stops in early 2015 and in one in six stops by the end of 2015.
- The probability of Caucasians being searched once stopped was 1 in 21 in 2015 and 1 in 22 in 2014.
- As officers are required by policy to document the reason for a search, any failure constitutes a policy violation. In 2015, there were only two allegations filed for violation of this policy. The OPM finds it unlikely that this policy was violated only two times.
- The Center for Policing Equity/Urban Institute built a model that resulted in three noteworthy findings related to race/ethnicity and stops: 1) Stopped Black/African American drivers of all ages had the highest probability of a

search; 2) Stopped, young Hispanic/Latino drivers had the second-highest probability of a search, at a rate comparable to older Black/African American drivers; and, 3) Age-related reductions in the probabilities of searches were greater for stopped Caucasians and Hispanic/Latino drivers than for Black/African Americans.

- Fifty-six percent of the time, nothing was found in a probable cause search which means that something was found less than half of the time. This is a slightly lower rate of discovery than last year.
- Looking at the APD's 2015 racial profiling data, it can be seen that the hit rate for Caucasians, Blacks/African Americans and Hispanics/Latinos is between 26% and 42%. For the most part, the hit rate seems to correspond to the number of searches conducted.
- The Center for Policing Equity/Urban Institute found the APD's hit rates to be very high when looking at arrest hit rate data. They believe this may be partly explained by the APD having one of the strictest consent search requirements in the country – something the OPM helped establish. However, they noted it could also stem from missing data as the APD does not publish data on all vehicle stops. The failure to publish data on all vehicle stops is a practice of which the OPM has been critical.
- In looking at arrest numbers from the 2015 APD Response to Resistance report and comparing these numbers to the voting age population of the City of Austin, we can see that Blacks/African Americans were arrested at a rate 17% (three times) higher than their representation in the voting age population of Austin.
- Blacks/African Americans made up 25% of all arrests in Austin in 2015 and accounted for 27% of the force used during the course of the arrest. By comparison, Caucasians made up 41% of the arrests but only 33% of the force used. Simply put, Blacks/African Americans had force used *more* while Caucasians had force used *less* than their percentage of arrests.
- The Center for Policing Equity/Urban Institute had access to the 2014 response to resistance data and included its finding in their report. They did find notable disparities among the three major racial/ethnic groups.
- The Center for Policing Equity/Urban Institute found that both the use of force and severity models they built to further analyze disparities in use of force yielded a disproportionate amount of force in neighborhoods with higher percentages of Black/African American or Hispanic/Latino residents.
- Supervisor Referrals were down in 2015 to 272 from 305 in 2014. As the number of complaints filed, Caucasians filed one less in 2015 than was filed in 2014.

Blacks/African Americans and Hispanics/Latinos also filed fewer, 15 (↓ 21%) and 11 (↓ 15%), respectively.

- Males file External Formal complaints at a rate higher than their representation within the City (70% of complaints; 53% of the population) while females file at a rate lower (28% of complaints; 47% of the population). The gender of the other 2% of complainants is unknown.
- External Formal complaints as a whole were down in 2015, from 67 to 64. The Downtown area command, which frequently has the most complaints, did so again this year with 20. In a distance second is South Central with seven (7). In a three-way tie for third are the Northwest, Southeast and North Central area commands with six (6) each.
- In 2015, 53% of all External Formal complaints received a “D” classification. This is down slightly from the 57% seen in 2014.
- As in years past, Code of Conduct-type complaints continue to be the most frequently reported allegation for both Supervisor Referrals as well as External Formal complaints. This has been the case since the OPM began tracking complaints.
- The allegation of “Bias-Based Profiling” was recorded 18 times when External Formal complaints and Supervisor Referral complaints are combined. In addition to these 18 allegations, the OPM identified an additional three times in External Formal complaints and seven times in Supervisor Referral complaints where the complainant stated they believed the APD acted prejudicially toward them.
- Caucasians were responsible for 33% of all allegations (56 of the 170 allegations) in External Formal complaints. Blacks/African Americans accounted for 36 of the 170 (21%) and Hispanics/Latinos accounted for 41 of the 170 (24%). Asians accounted for 24 of the 170 (14%).
- Blacks/African Americans and Asians levied the most Use of Force/Response to Resistance allegations, seven each. This was more than any other racial group. Caucasians filed three (3).
- When combining allegations for both Supervisor Referrals and External Formal complaints, the area command with the highest number of allegations was Downtown with 102. This was followed by Central East and Southwest with 59 and 55, respectively. The Southeast area command was fourth with 52 allegations total.
- In 2015, there were 11 Use of Force/Response to Resistance allegations in Supervisor Referrals and 20 in External Formal complaints. Of the Response to

Resistance allegations associated with External Formal complaints, only four of the nine area commands had at least one Response to Resistance allegation.

- The OPM has since 2011, raised concerns regarding the relatively low number of Response to Resistance complaints received by this Office and does so again this year. The concern stems from the fact that the APD in its Response to Resistance reports cites thousands of incidences of use each year. Of these thousands of incidences of use of force, the OPM typically sees less than 50 allegations each year. Several high profile cases have highlighted the deficiency in the manner in which APD reviews responses to resistance or uses of force.
- In 2015, 7% of allegations in External Formal allegations were Sustained. This is down a bit from 2014 when it was 10%. The percent of allegations that were Administratively Closed in 2015 was 66%. This is a large decrease over 2014 when 81% were closed administratively.
- In 2015, there were no officers Indefinitely Suspended as a result of an external complaint. In fact, just 10 of the 170 allegations resulted in any discipline at all. One officer received education-based discipline relative to one allegation, two officers received oral reprimands relative to three allegations, two officers received written reprimands relative to three allegations, and one officer was suspended relative to three allegations.
- For those with complaints in 2015, the average length of time the officer had served on the force until the date of the incident with the public was 8.3 years for Supervisor Referrals and 10.9 years for Formal complaints.
- As has been the case in years past, the public bring complaints against male officers at a higher rate than their representation on the police force and, of course, this is reflected in the number of allegations lodged against the officer.
- Caucasian officers were slightly overrepresented in total allegations compared to their population within the APD while Hispanic/Latino officers were slightly underrepresented.
- As a group, the 40-49 year old officers have the most allegations lodged against them. Last year, it was the 30-39 group, who have the second highest this year.
- For those officers with a complaint in 2015, meaning External Formal complaints, Supervisor Referrals and/or Internal Formal complaints, the OPM found that 63% of these officers also had at least one previous complaint sometime between 2011 and 2014.

Section 3: OPM Recommendations

- While state regulation may not require the reporting of stops or searches that do not result in a citation or arrest, APD should make that data available to the OPM and the public. This data should include not only stops of vehicles, but also pedestrian stops that resulted in frisks or searches.
- The OPM recommends that routine audits of traffic stops videos and reports be performed to ensure racial profiling data has been provided as required. If it has not been provided, but is available, the report should be supplemented.
- APD should take greater care in classifying cases as a “D.” If it is not clear on the face of the complaint that it has no merit, the case should be classified as an “A” or “B.” If it is determined that the officer did not commit a violation, the case should then be “unfounded” as opposed to being administratively closed.
- Given the number of incidents in which the APD uses force, the number of external allegations seems low. In order to ensure that the Response to Resistance policy is being followed, the OPM is recommending that routine audits of Response to Resistance reporting be conducted by the OPM and the APD. If deficiencies are discovered, training, policy development, and/or discipline should be considered.
- It is recommended that the APD continue to review the staffing assignments to allocate the most experienced officers and least experienced officers in at least a more balanced manner taking into consideration the level of activity and crime rate.

Section 4: End of Year Statistical Review

Complaints

Number & Types of Complaints

In 2015, 1,134 persons (Internal & External) contacted the OPM or the APD's Internal Affairs Department (IAD) wishing to file a complaint against one or more members of the APD. This was an increase of 2% (18 contacts/complaints) from 2014. Of these contacts, a little less than half of those who reached out to either the APD or the OPM (552 of the 1,134) actually resulted in some type of complaint being filed.

When a member of the public files a complaint with the OPM, they are made aware of the avenues available to them during a consultation with a Complaint Specialist. They have a choice regarding the type of complaint they would like to file and whether to file a complaint at all. Should they choose to proceed with their complaint, they have the option of filing a Supervisor Referral, filing a Formal complaint or opting for Mediation.

The following graph includes all individuals contacting the OPM or the APD regarding an issue with an APD officer including those from within the APD. In this figure, the term "contacts only" means that a person reached out to the OPM, reached out to the IAD or requested to speak to a supervisor while the officer and the complainant were still on the scene of the incident or shortly thereafter. For those that reached out to the OPM or IAD, a contact as defined here means that the person did not file a Supervisor Referral or a Formal complaint. The complaint may not have been filed because:

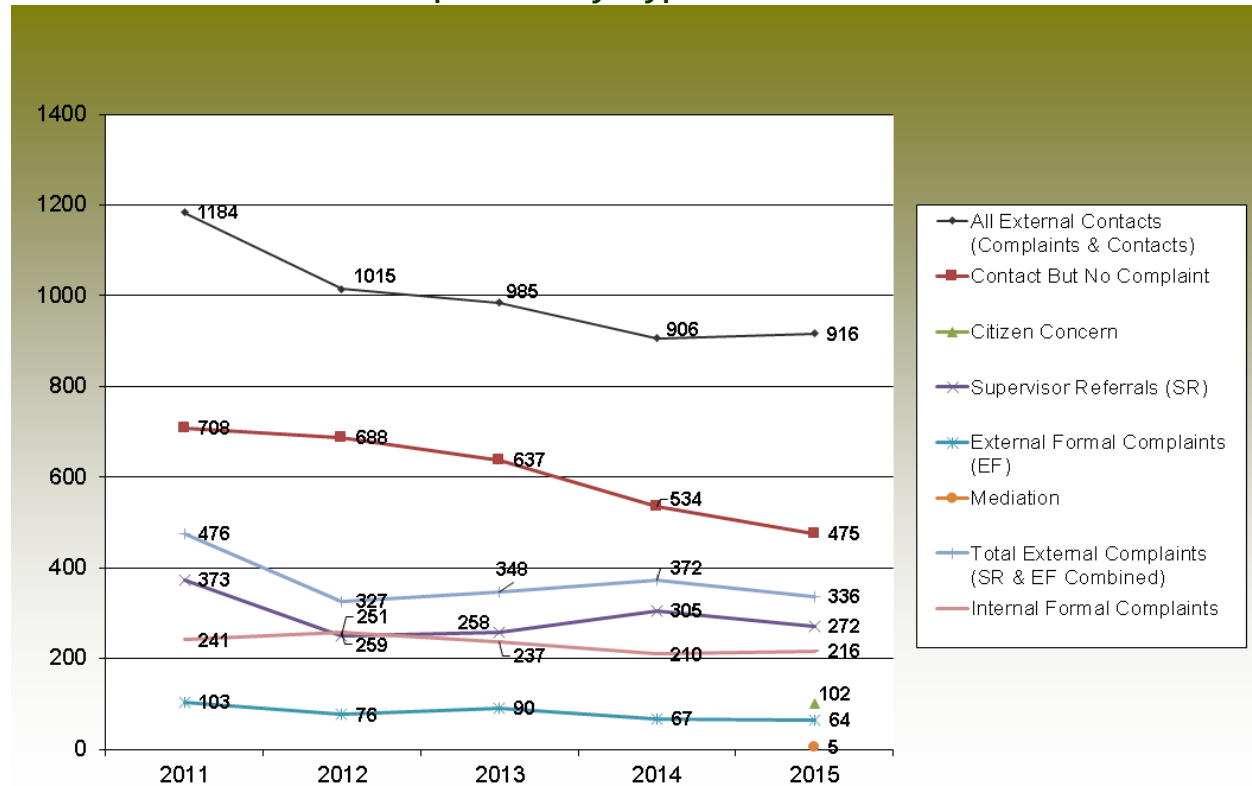
- The incident did not meet the criteria outlined in the APD's policy manual, Lexipol;
- After speaking with the Complaint Specialist or the officer's supervisor, the individual had a better understanding of the officer's actions and no longer desired to file a complaint;
- The individual did not provide sufficient information for follow up;
- The individual was not available for follow up;
- The individual failed to follow through with the complaint process;
- The incident involved a complaint against a law enforcement agency other than APD; or,
- Was a matter best handled by the courts or another agency.

For those people who requested a supervisor be sent to the scene of the incident, they remain a "contact" for the purposes of this report because they were either satisfied with the answers provided to them by the supervisor and/or chose not to come to the OPM to file a complaint.

A person cannot file a complaint unless the incident actually happened to them. Therefore, many contacts the OPM receives are calls about an incident that the person witnessed. Examples of this include the many witnesses to an incident at SxSW in 2015 where police used a Taser on one man. Many of the persons who called did not witness the incident other than to view it on YouTube.

We have historically captured these as a “contact” but because we receive so many of these types of calls, we have started to label these types of contacts as “Citizen Concerns.” “Citizen Concerns” are incidents that cannot be logged as a complaint because the person contacting the OPM was not involved in the incident; they were merely a witness to it in person or via social media. However, the situation they witnessed was of enough concern to them that they reached out to the OPM to alert us. In 2015, we received 102 of these types of calls, many regarding the same incident such as the SxSW incident noted above.

Table 1: Contacts & Complaints by Type – 2011-2015



There were 280 Formal complaints filed in 2015 – 64 External Formal complaints and 216 Internal Formal complaints. In aggregate, this was a total increase of less than 1% (3 cases) from the number filed in 2014. There were 3 *fewer* External Formal complaints (↓ 1%) and 6 *more* Internal Formal complaints (↑ 3%).

The total number of Supervisor Referrals monitored by the OPM was down in 2015 to 272 complaints, a decrease of 11% (33) from 2014. External Formal complaints has been up and down over the past five years as can be seen in the chart above. When

combining the two types of external complaints, there was a decrease of 10% (36 total complaints) in 2015 versus 2014.

When a complainant files a Supervisor Referral, they have the option of speaking directly to an officer's supervisor about the issue. Supervisor Referrals are usually initially handled by the individual officer's supervisor and sometimes by the entire chain of command. The process was developed jointly by the APD and the OPM in an effort to provide members of the public the option to speak directly with an officer's supervisor when the complaint is of a less serious nature.

While the OPM believes the option of speaking directly to an officer's supervisor is one of the factors leading complainants to choose this avenue, other factors may also come into play. One factor is time—Supervisor Referrals normally take less than 30 days to complete while a Formal complaint may take as long as 180 days. Another factor is that, in general, the vast majority of complaints being brought do not involve accusations of serious misconduct.

The OPM assesses complainant satisfaction with the resolution of the Supervisor Referral via a follow-up conversation with the complainant. During this time, the complainant is made aware that if they are not satisfied with the outcome of the case, they have the option to file an External Formal complaint. In 2015, 19 complainants chose to advance to an External Formal complaint after first going through the Supervisor Referral process. This is more than in 2014 when only 11 complainants chose to move their complaint into the formal complaint process and 2013 when there were only four (4). The OPM is concerned about the upward trend of dissatisfaction with the Supervisor Referral process and will monitor if the trend continues in 2016.

Complaints & Complainant Demographics

Complaints may be filed at the OPM in person, by telephone, e-mail, facsimile, or mail. Because of the various methods of contacting the OPM, thorough collection of all demographic data points continues to be a challenge. Often complainants simply do not wish to share this information, particularly over the phone. This challenge proves to be even more problematic with Supervisor Referrals as can clearly be seen in the high percentage of missing or unknown data in this category. The OPM continues to strive to improve data collection methods while respecting the wishes of the complainants who do not wish to provide this information.

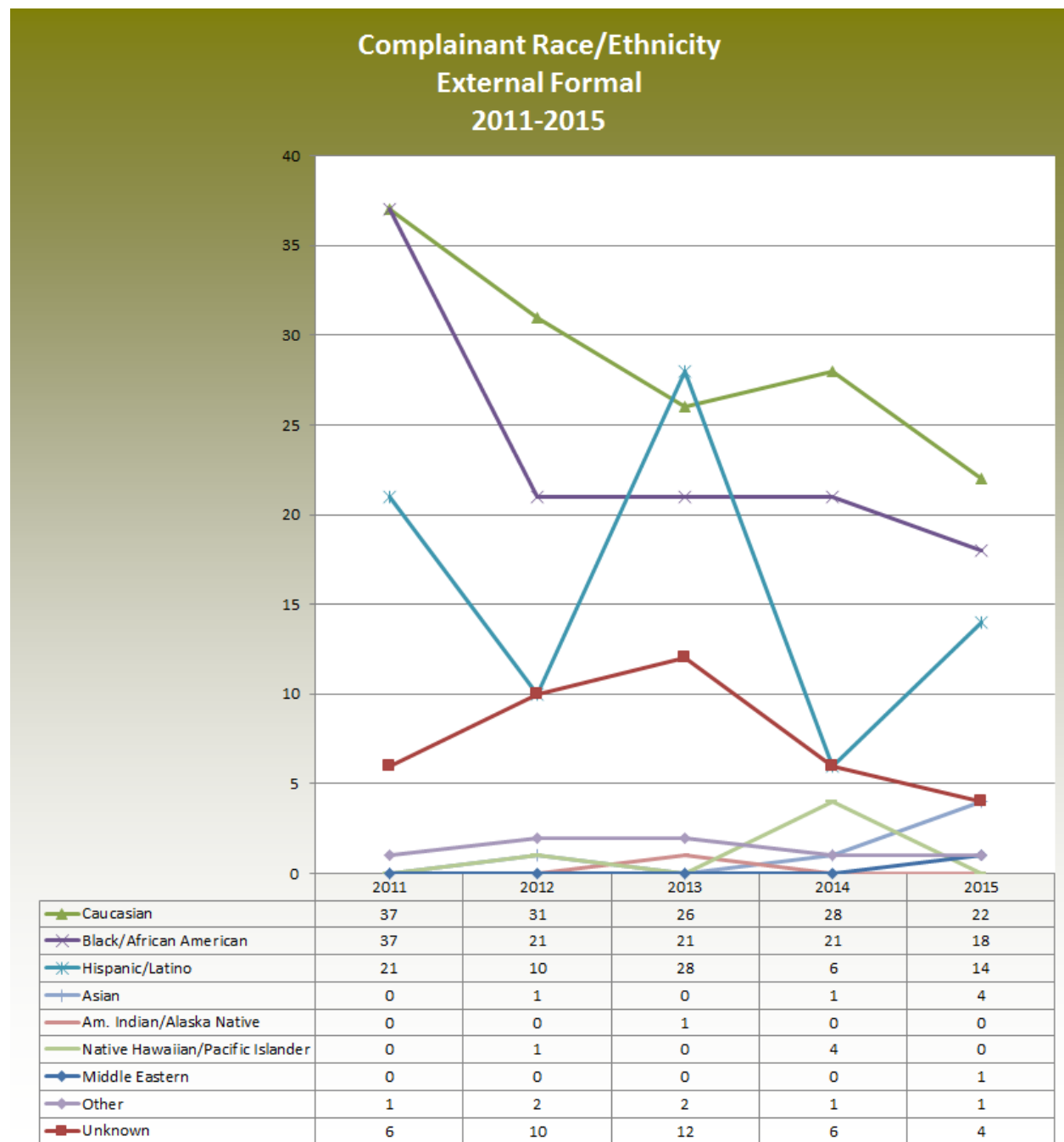
Please note that the data presented in the table below are not made up of unique individuals as a person may file more than one complaint and/or more than one type of complaint if they were involved in more than one incident.

Table 2: Race/Ethnicity of Complainants - 2015

Ethnicity/Race	Supervisor Referrals		External Formals		Total	
	#	%	#	%	#	%
Caucasian	102	38%	22	34%	124	37%
Black/African American	63	23%	18	28%	81	24%
Hispanic/Latino	57	21%	14	22%	71	21%
Asian	2	1%	4	6%	6	2%
Am. Indian/Alaska Native	1	0%	0	0%	1	0%
Native Hawaiian/Pacific Islander	2	1%	0	0%	2	1%
Middle Eastern	3	1%	1	2%	4	1%
Other	4	1%	1	2%	5	1%
Unknown	38	14%	4	6%	42	13%
Total	272	100%	64	100%	336	100%

*May not total to 100% due to rounding.

**Table 3: External Formal Complainant Race/Ethnicity
(Graph of Counts) – 2011-2015**



Caucasians continue to file the most complaints overall and only filed one less Supervisor Referral in 2015 than they did in 2014. Blacks/African Americans filed 11 fewer Supervisor Referrals in 2015 and three (3) fewer External Formal complaints. Hispanic/Latinos filed 14 External Formal complaints in 2015. This was an increase over 2014 by eight (8) cases. In 2013, Hispanics/Latinos had the highest number of External Formal complaints – a number more in line with their representation in the voting age population of Austin.²

Table 4: External Formal Complaints by Complainant Race/Ethnicity (Table of Counts & Percentages) – 2011-2015

Ethnicity/Race	External Formal									
	2011		2012		2013		2014		2015	
	#	%	#	%	#	%	#	%	#	%
Caucasian	38	37%	31	41%	27	30%	28	42%	22	34%
Black/African American	38	37%	21	28%	21	23%	21	31%	18	28%
Hispanic/Latino	21	20%	10	13%	28	31%	6	9%	14	22%
Asian	0	0%	1	1%	0	0%	1	1%	4	6%
Am. Indian/Alaska Native	0	0%	0	0%	1	1%	0	0%	0	0%
Native Hawaiian/Pacific Islander	0	0%	1	1%	0	0%	4	6%	0	0%
Middle Eastern	0	0%	0	0%	0	0%	0	0%	1	2%
Other	1	1%	2	3%	2	2%	1	1%	1	2%
Unknown	5	5%	10	13%	12	13%	6	9%	4	6%
Total	103	100%	76	100%	91	100%	67	100%	64	100%

*May not total to 100% due to rounding.

In analyzing complaints, the OPM looks at how the percentages compare to the voting age population of Austin. The focus here is on the three largest groups of people as based on their population numbers. Caucasians make up the majority of the voting age population within the City of Austin. This group filed formal complaints at a rate 19% less than their representation in the population. Blacks/African Americans make up 8% of the population but filed 28% of the External Formal complaints in 2015, meaning they filed at a rate that is four times their representation in the population. Year after year Blacks/African Americans file complaints at a rate significantly higher than their representation in the population while Caucasians file at a rate that is lower.

Hispanics/Latinos filed External Formal complaints at a rate 9% lower than their representation in the Austin voting age population. With 2013 being the exception, historically, this group has filed complaints at a rate much lower than their representation in the population for the majority of the years the OPM has been reporting.

² The voting age population was chosen in order to more closely approximate the ages of members of the public most likely to have interaction with the APD as well as to better reflect the age range of complainants coming into the OPM. The voting age population is also viewed as a closer approximation of those operating motor vehicles (as opposed to the total population which includes children).

Table 5: 2015 External Formal Complainant Race/Ethnicity versus 2010 City of Austin Voting Age Population

Ethnicity/Race	External Formals		2010 City of Austin Voting Age Population		Gap: % Complaints vs. % Population
Caucasian	22	34.4%	329,500	53.4%	-19.1%
Black/African American	18	28.1%	46,219	7.5%	20.6%
Hispanic/Latino	14	21.9%	188,318	30.5%	-8.7%
Am. Indian/Alaska Native	0	0.0%	1,639	0.3%	-0.3%
Asian	4	6.3%	39,604	6.4%	-0.2%
Native Hawaiian/Pacific Islander	0	0.0%	1,639	0.3%	-0.3%
Unknown/Other	6	9.4%	9,645	1.6%	7.8%
	64	100%	616,564	100%	

*May not total to 100% due to rounding.

**For the purposes of this table, the Middle Eastern group has been included in Unknown/Other.

Because of their low complaint rate, the OPM continues to make a concerted effort to reach out to the Hispanic/Latino community. Part of this effort has been to stress that the OPM will not inquire as to the immigration status of the complainant or any of the witnesses. While this may have had an impact on this group in 2013, it was clearly not the case in 2014 or 2015. Because of the low filing rate of External Formal complaints from Hispanics/Latinos, and given the perceived reticence of this group to file complaints, the OPM remains concerned about the number of issues this group may *not* be reporting.

A greater emphasis on outreach to the Asian community has been made in recent years including producing brochures in both Vietnamese and Mandarin on how to file a complaint. Perhaps stepping up outreach to the Asian community (as it is one of the fastest growing population groups in Austin) has helped somewhat as those classified as Asian constitute 6% of the voting age population and filed 6% (4) of the External Formal complaints in 2015.

The APD Racial Profiling Report

Each year the APD produces a report on racial profiling that includes the number of vehicle stops and searches within the City by the race/ethnicity of the driver. It should be noted that APD does not report the stops in which a search was conducted and no contraband was found and no arrest was made or citation issued.

Table 6: 2015 Traffic Stops by Race/Ethnicity versus 2010 City of Austin Voting Age Population

APD Category	2015 Traffic Stops		2010 City of Austin Voting Age Population		Difference: Population vs. Stops	Percent of Population Stopped	Likelihood of Being Stopped
Caucasian	59,699	49.7%	329,500	53.4%	-3.7%	18.1%	1 out of 6
Black/African American	14,753	12.3%	46,219	7.5%	4.8%	31.9%	1 out of 3
Hispanic/Latino	37,702	31.4%	188,318	30.5%	0.9%	20.0%	1 out of 5
Asian	3,715	3.1%	39,604	6.4%	-3.3%	9.4%	1 out of 11
Am. Indian/Alaska Native	52	0.0%	1,639	0.3%	-0.2%	3.2%	1 out of 32
Middle Eastern	1,655	1.4%	**	**	**	**	**
Unknown/Other	2,480	2.1%	11,284	1.8%	**	**	**
	120,056	100%	616,564	100%			

*May not total to 100% due to rounding.

The APD states that Caucasians were stopped 59,699 times in 2015, or 50% of all traffic stops. Blacks/African Americans were stopped 14,753 times, or 12% of all reported traffic stops, and Hispanics/Latinos were stopped 37,702 times, or 31% of all traffic stops. As can be seen in the table above, when comparing the number of stops to the voting age population for each group within the City of Austin, Caucasians were stopped 4% less than their representation of the voting age population.

Hispanics/Latinos were stopped at a rate basically on par with their representation in the population. Blacks/African Americans were stopped at a rate 5% above their representation within the City of Austin's population. Thus, the largest disparity between stops and the voting age population within any racial/ethnic group is, again, amongst the Black/African American group as it has been since the OPM starting reporting it as can be seen in the table below.

There have been attempts by others to explain the overrepresentation in stops of Blacks/African Americans by suggesting that Blacks/African Americans residing in surrounding communities come into Austin to work and/or for entertainment. While the OPM finds little reason to suggest that Blacks/African Americans would commute into Austin at a higher rate than any other racial/ethnic group, the OPM also compared the percentage of stops to the voting age population within Travis County as well as the Austin Metropolitan Statistical Area (MSA) voting age population. The Austin MSA covers the counties of Travis, Williamson, Hays, Bastrop and Caldwell and includes the communities of Austin, Round Rock, Cedar Park, San Marcos, Georgetown, Pflugerville, Kyle, Leander, Bastrop, Brushy Creek, Buda, Dripping Springs, Elgin, Hutto, Jollyville, Lakeway, Lockhart, Luling, Shady Hollow, Taylor, Wells Branch, and

Windemere. There is very little difference in the percentage of stops data between the City of Austin and Travis County voting age population, and only a slight difference when looking at the MSA data. The data still show that Blacks/African Americans are stopped at a greater percentage than their representation in each population.

In October of 2016, the Center for Policing Equity/Urban Institute released a report entitled, *The Science of Policing Equity*. This report looked at the 2015 Racial Profiling data as well as the 2014 Response to Resistance data. In this report, it cited that while there were fewer vehicle stops for Black/African American drivers, a higher proportion of Black/African American drivers were stopped than Hispanic/Latino or Caucasian drivers.³ This is not new and something the OPM has been reporting for a number of years now.

The Center for Policing Equity/Urban Institute took this a step further and calculated an “officer discretionary index” (ODI). The ODI compares the proportion of officer discretionary stops with the proportion of citizen-initiated stops within race/ethnic groups. What they found is that among stops resulting in a citation or arrest, Black/African American drivers were stopped at a higher rate when the stop was officer-initiated than those that were citizen- initiated.

Table 7: 2015 Traffic Stops by Race/Ethnicity versus 2010 Travis County and Austin MSA Voting Age Population

APD Category	2015 Traffic Stops		2010 Travis County Voting Age Population		Difference: Population vs. Stops	2010 Austin MSA Voting Age Population		Difference: Population vs. Stops
Caucasian	59,699	49.7%	429,849	55.2%	-5.4%	756,128	59.0%	-9.3%
Black/African American	14,753	12.3%	60,875	7.8%	4.5%	87,873	6.9%	5.4%
Hispanic/Latino	37,702	31.4%	228,123	29.3%	2.1%	352,400	27.5%	3.9%
Asian	3,715	3.1%	46,461	6.0%	-2.9%	62,996	4.9%	-1.8%
Am. Indian/Alaska Native	52	0.0%	2,117	0.3%	-0.2%	3,861	0.3%	-0.3%
Middle Eastern	1,655	1.4%	**	**	**	**	**	**
Unknown/Other	2,480	2.1%	11,804	1.5%	**	18,271	1.4%	**
	120,056	100%	779,229	100%		1,281,529	100%	

*May not total to 100% due to rounding.

³ Center for Policing Equity/Urban Institute. (2016). *The Science of Policing Equity: Measuring Fairness in the Austin Police Department*. Retrieved from http://policingequity.org/wp-content/uploads/2016/10/Austin_PDI_Report_2016_Release.pdf

There were 9,253 searches included in the 2015 racial profiling data. This is down from the 2014 Racial Profiling report when there were 11,307 searches reported.

Table 8: 2015 Traffic Stops and Searches by Race/Ethnicity

APD Category	2015 Traffic Stops		2015 Searches		Likelihood of Being Searched if Stopped	
Caucasian	59,699	49.7%	2,838	30.7%	4.8%	1 out of 21
Black/African American	14,753	12.3%	2,228	24.1%	15.1%	1 out of 7
Hispanic/Latino	37,702	31.4%	3,973	42.9%	10.5%	1 out of 9
Asian	3,715	3.1%	109	1.2%	2.9%	1 out of 34
Am. Indian/Alaska Native	52	0.0%	5	0.1%	9.6%	1 out of 10
Middle Eastern	1,655	1.4%	41	0.4%	2.5%	1 out of 40
Unknown/Other	2,480	2.1%	59	0.6%	2.4%	1 out of 42
	120,056	100%	9,253	100%		

*May not total to 100% due to rounding.

Table 9: 2014 Traffic Stops and Searches by Race/Ethnicity

APD Category	2014 Traffic Stops		2014 Searches		Likelihood of Being Searched if Stopped	
Caucasian	75,218	51.9%	3,474	30.7%	4.6%	1 out of 22
Black/African American	17,178	11.9%	2,726	24.1%	15.9%	1 out of 6
Hispanic/Latino	43,794	30.2%	4,890	43.2%	11.2%	1 out of 9
Asian	4,267	2.9%	97	0.9%	2.3%	1 out of 44
Am. Indian/Alaska Native	63	0.0%	8	0.1%	12.7%	1 out of 8
Middle Eastern	1,948	1.3%	51	0.5%	2.6%	1 out of 38
Unknown/Other	2,438	1.7%	61	0.5%	2.5%	1 out of 40
	144,906	100%	11,307	100%		

*May not total to 100% due to rounding.

The OPM often hears from complainants that they were searched without probable cause or permission and that the officer told them, “I am going to give you a break and only give you a warning.” Such searches are no longer listed in the APD’s Racial Profiling report. In 2013, the APD changed its Racial Profiling report to exclude all stops where the driver was issued a warning only or where a field observation card was generated but the driver was not arrested, issued a citation or had their vehicle towed. The OPM will continue to monitor the search activity of the APD to ensure all members of the community are treated fairly.

Recommendation

For the third straight year, the OPM is recommending that while state regulation may not require the reporting of stops or searches that do not result in a citation or arrest, APD should make that data available to the OPM and the public. This

data should include not only stops of vehicles, but also pedestrian stops that resulted in frisks or searches.⁴

According to the 2015 racial profiling data, Caucasians accounted for 50% of the stops and 31% of the searches.

Blacks/African Americans accounted for 12% of the stops and 24% of the searches.

Hispanics/Latinos accounted for 31% of the stops and 43% of the searches. For the past four years, more searches of Hispanics/Latinos were conducted than of any other group.

Despite being searched the greatest number of times in 2015, Hispanics/Latinos had a 1 in 9 chance of being searched after being stopped. This has remained constant for the past three years. Blacks/African Americans had a 1 in 7 chance of being searched if stopped. This was 1 in 6 in both 2013 and 2014. The probability of Caucasians being searched once stopped was 1 in 21 in 2015 and 1 in 22 in 2014. There is a double digit difference between Caucasians and the other two large racial groups.

Figure 2: Five-Year Average Likelihood of Being Searched if Stopped



*The OPM used the numbers in the re-issued 2012 Racial Profiling Report when calculating these averages.

In August of 2012, a new policy was instituted wherein the APD began requiring officers to have drivers sign a form before a consent search could be performed on their vehicles. This policy came into effect after the OPM's 2011 Annual Report pointed out that more drivers of color were being searched than their Caucasian counterparts

⁴ Ibid. The Center for Policing Equity/Urban Institute also recommended that the APD begin collecting and publishing pedestrian stops and vehicle stops not resulting in a citation or arrest. For the record, APD has promised to do so beginning in January, 2017.

despite there being virtually no difference in contraband found. In 2015, consent searches accounted for 63 of the 9,253 searches conducted, or less than 1% of all searches. In 2011, the last full year before written consent was required, consent searches accounted for 6% of all searches (694 of 11,719).

Recommendation

As noted above, APD no longer reports stops and searches which do not discover contraband and do not result in a citation or arrest. Thus, there may be consent searches occurring which are not being reported. The OPM recommends that APD make the data on all searches conducted incident to consent available to the OPM and the public.

Table 10: 2015 Consent vs. Non-Consent Searches by Race/Ethnicity

APD Category	Consent Search		Non-Consent Search								Total All Seaches	
			Arrest		Contraband		Probable Cause		Tow			
Caucasian	10	15.9%	1,854	33.2%	21	26.3%	738	25.0%	215	36.8%	2,838	30.7%
Black/African American	19	30.2%	1,203	21.6%	26	32.5%	892	30.2%	88	15.1%	2,228	24.1%
Hispanic/Latino	30	47.6%	2,416	43.3%	32	40.0%	1,254	42.5%	241	41.3%	3,973	42.9%
Asian	0	0.0%	66	1.2%	1	1.3%	26	0.9%	15	2.6%	108	1.2%
Am. Indian/Alaska Native	0	0.0%	3	0.1%	0	0.0%	2	0.1%	0	0.0%	5	0.1%
Hawaiian/Pacific Islander	0	0.0%	0	0.0%	0	0.0%	1	0.0%	0	0.0%	1	0.0%
Middle Eastern	0	0.0%	21	0.4%	0	0.0%	15	0.5%	5	0.9%	41	0.4%
Unknown/Other	4	6.3%	14	0.3%	0	0.0%	21	0.7%	20	3.4%	59	0.6%
Total by Search Type	63	100%	5,577	100%	80	100%	2,949	100%	584	100%	9,253	100%
Percent of All Searches	0.7%		60.3%		0.9%		31.9%		6.3%			

*May not total to 100% due to rounding.

Non-consent searches make up the majority of all searches. Non-consent searches include searches made incident to arrest, those based on probable cause, those based on some sort of contraband reported to be in plain view, and towing situations when a vehicle's contents need to be inventoried before it is impounded.

In the 2015 racial profiling data, the APD reported 5,577 searches subject to arrests, 80 searches where some form of contraband was reported to be in plain view, 2,949 searches pursuant to probable cause and 584 searches where a vehicle was towed. These instances total 9,190, or 99% of all searches. In 2014, the percent of non-consent searches was also 99%.

Searches were down across the board in 2015. Searches subject to arrest were down by 1,379 (↓ 20%). Probable cause searches were down by 615 (↓ 17%). Searches pursuant to a tow were down by seven (↓ 1%).

As officers are required by the APD policy 306 to document the reason for a search, any failure constitutes a policy violation. In 2015, there were only two allegations filed for violation of this policy. The OPM finds it unlikely that this policy was violated only

two times especially given that a 2014 media-based investigation discovered that when data required by statute were missing, the stop and/or search record was deleted from the dataset as opposed to indicating the data were incomplete.

Recommendation

The OPM recommends that routine audits of traffic stops videos and reports be performed to ensure racial profiling data has been provided as required. If it has not been provided, but is available, the report should be supplemented.

Overall, Blacks/African Americans account for 24% of *all* searches while representing 12% of those stopped, and 8% of the voting age population of Austin.

Hispanics/Latinos account for 31% of the population and represent 31% of stops but make up 43% of all searches. There are double digit gaps between these two minority groups and the percent of time they are stopped and searched for any reason. There is a double digit gap for Caucasians as well but as an underrepresentation.

In the 2016 *Science of Policing Equity* report, the researchers noted that when looking at searches *not* incidental to arrest, search rates were highest for stopped Black/African American drivers. They reported these data by month and found that at its highest in 2015, Black/African American drivers were searched in every one out of three stops in early 2015 and in one in six stops by the end of 2015.⁵ The OPM has previously pointed out that the disparity increased when looking at discretionary searches as opposed to mandatory searches such as incidental to arrest.

To understand officers' decision to search, the researchers in the 2016 *Science of Policing Equity* report, built a logistic regression model that included driver's race/ethnicity, gender, age and whether the officer indicated they knew the driver's race/ethnicity before the stop. This model focused on stops resulting in arrest and searches that were not incident to arrest. In this model they found that race/ethnicity and age interacted to predict officers' decisions to conduct searches on stopped vehicles. They found that this held true even when adjusting for gender, age and whether race/ethnicity was reported as known before the stop. They pointed out three noteworthy findings:

- 1) Stopped Black/African American drivers of all ages had the highest probability of a search;
- 2) Stopped, young Hispanic/Latino drivers had the second-highest probability of a search, at a rate comparable to older Black/African American drivers; and,
- 3) Age-related reductions in the probabilities of searches were greater for stopped Caucasians and Hispanic/Latino drivers than for Black/African Americans.

⁵ Ibid.

Table 11: 2015 What Found in Probable Cause and Contraband in Plain View Searches by Race/Ethnicity

APD Category	Probable Cause			Contraband		
	Search	Nothing Found		Search	Nothing Found	
	#	#	%	#	#	%
Caucasian	738	403	54.6%	21	7	33.3%
Black/African American	892	477	53.5%	26	12	46.2%
Hispanic/Latino	1,254	723	57.7%	32	15	46.9%
Asian	26	16	61.5%	1	0	0.0%
Am. Indian/Alaska Native	2	2	100.0%	0	0	0.0%
Hawaiian/Pacific Islander	1	0	0.0%	0	0	0.0%
Middle Eastern	15	10	66.7%	0	0	0.0%
Unknown	21	15	71.4%	0	0	0.0%
Total	2,949	1,646	55.8%	80	34	42.5%

*May not total to 100% due to rounding.

Searches incident to arrest and towing are considered low discretion searches. In other words, by policy, the officer must search. Searches based on consent, probable cause, and contraband are high discretion searches. While the search of a motor vehicle is normally exempted from the search warrant requirement, police do need a basis for the search. The most common reasons cited are consent, incident to arrest, probable cause, contraband in plain view, and subject to towing; these are reported here. Many factors contribute to the existence of probable cause, but the basic premise is that probable cause requires facts or evidence that would lead a reasonable person to believe the vehicle contains contraband or evidence. There is disagreement as to what is an acceptable “hit rate” for contraband. While it is not expected that officers will be right 100% of the time, most literature suggests that “probable” means more likely than not contraband or evidence will be found. The 56% overall rate at which nothing was found means that something was found less than half of the time. This is a slightly lower rate of discovery than last year.

The 58%, 62% and 67% rate at which nothing was found in probable cause searches of Hispanics/Latinos, Asians and those of Middle Eastern descent, respectively, is very concerning even keeping in mind the relatively low numbers of Asians and Middle Easterners searched.

APD calls the finding of some form of contraband a “hit.” Looking at the APD’s 2015 racial profiling data, it can be seen that the hit rate for Caucasians, Blacks/African Americans and Hispanics/Latinos is between 26% and 42%. For the most part, the hit rate seems to correspond to the number of searches conducted. Blacks/African Americans have a slightly higher hit rate than their search percentage but when looking at the likelihood of a hit, there is virtually no difference between the groups. Again, the

OPM is concerned about skewed data being reported due to the elimination of search data when nothing was found and no citation was issued.

The Center for Policing Equity/Urban Institute found, as the OPM has, that the hit rates between Caucasians, Blacks/African Americans and Hispanics/Latinos were about the same. They noted that the lack of hit rate differences can typically be interpreted as evidence of lack of bias in decisions to stop or search. That said, they also pointed out that because the data used in their hit rate analysis only included cases where arrests were made, they did not know the rates at which different groups were searched and contraband not found. Therefore, “they could not draw any conclusions about bias from hits rates among arrest stops.”⁶

It should also be noted that when looking at arrest hit rate data, the Center for Policing Equity/Urban Institute found the APD’s hit rates to be very high. They believe this may be partly explained by the APD having one of the strictest consent search requirements in the country – something the OPM helped establish. However, they noted it could also stem from missing data as the APD does not publish data on all vehicle stops. To address this, the chief of police has committed to collecting and publishing data on both pedestrian stops and those vehicle stops that did not result in a citation or arrest beginning in January of 2017.

Table 12: 2015 Searches and “Hits” by Race/Ethnicity

APD Category	2015 Searches		2015 "Hits"		Likelihood of a "Hit"	
Caucasian	2,838	30.7%	898	30.3%	31.6%	1 out of 3
Black/African American	2,228	24.1%	784	26.4%	35.2%	1 out of 3
Hispanic/Latino	3,973	42.9%	1,230	41.5%	31.0%	1 out of 3
Asian	109	1.2%	34	1.1%	31.2%	1 out of 3
Am. Indian/Alaska Native	5	0.1%	1	0.0%	20.0%	1 out of 5
Middle Eastern	41	0.4%	8	0.3%	19.5%	1 out of 5
Unknown/Other	59	0.6%	10	0.3%	16.9%	1 out of 6
	9,253	100%	2,965	100%		

*May not total to 100% due to rounding.

The OPM recognizes the results presented here are not without flaw. There could be other explanations for some of the stop and search disparities. The OPM will continue to seek out additional information to help answer these questions.

⁶ Ibid.

The APD Response to Resistance Report

Each year the APD produces a Response to Resistance report. This report looks at the number of arrests APD made over the course of the year as well as how often force was used against someone who was arrested. The report includes the race/ethnicity of the individual who was arrested.

According to the 2015 APD Response to Resistance report, the APD made 44,037 arrests in 2015 and used force in those arrests 1,888 times. Caucasians were arrested 17,856 times, or 41% of the arrests and had force used against them 624 times, or 33% of the force used in arrests. Blacks/African Americans were arrested 10,814 times, or 25% of the arrests and had force used against them 511 times, or 27% of the force used in arrests. Hispanics/Latinos were arrested 14,519 times, or 33% of the arrests and had force used against them 611 times, or 32% of the force used in arrests.

When comparing these numbers to the voting age population of the City of Austin, we see that Blacks/African Americans were arrested at a rate three times higher than their representation in that population.⁷ Given that Blacks/African Americans made up 25% of all 2015 arrests and accounted for 27% of the force used during the course of the arrest, these numbers tell us that Blacks/African Americans had force used against them more often during their arrests. By comparison, Caucasians made up 54% of the population, 41% of the arrests but only 33% of the force used. Caucasians had force used less than their percentage of arrests. Hispanics/Latinos were arrested and had force used against them slightly more than their representation in the population, i.e., 33% of those arrested compared to 32% of the force used in arrests. Blacks/African Americans levied more Use of Force/Response to Resistance allegations than any other racial group except Asians. Each of these two groups levied seven Use of Force/Response to Resistance allegations. Caucasians were responsible for three, Hispanics/Latinos levied one.

Table 13: 2015 Arrests by Race/Ethnicity versus 2010 City of Austin Voting Age Population

APD Category	2015 Arrests		2010 City of Austin Voting Age Population		Difference: Population vs. Arrests
Caucasian	17,856	40.5%	329,500	53.4%	-12.9%
Black/African American	10,814	24.6%	46,219	7.5%	17.1%
Hispanic/Latino	14,519	33.0%	188,318	30.5%	2.4%
Unknown/Other	848	1.9%	52,527	8.5%	-6.6%
	44,037	100%	616,564	100%	

⁷ http://www.austintexas.gov/sites/default/files/files/Police/2015_response_to_resistance_dataset_100716.pdf

Table 14: 2015 Use of Force/Response to Resistance in Arrests by Race/Ethnicity

APD Category	2015 Arrests		2015 Use of Force in Arrests		Difference: Arrests vs. Force	Percent of Arrests Where Force Used	Likelihood of Having Force Used
Caucasian	17,856	40.5%	624	33.1%	7.5%	3.5%	1 out of 29
Black/African American	10,814	24.6%	511	27.1%	-2.5%	4.7%	1 out of 21
Hispanic/Latino	14,519	33.0%	611	32.4%	0.6%	4.2%	1 out of 24
Unknown/Other	848	1.9%	142	7.5%	-5.6%	16.7%	1 out of 6
	44,037	100%	1,888	100%			

The OPM has never had access to the data used to produce the APD's Response to Resistance report but has, since 2011, raised concerns about the number of reported incidents per year compared to the number of allegations that are filed. These concerns were only heightened as a result of the 2016 *Science of Policing Equity* report. The Center for Policing Equity/Urban Institute had access to the 2014 response to resistance data and included its finding in their report. They did find notable disparities among the three major racial/ethnic groups. To better understand the disparities they found when looking at these data, they tested the effect of neighborhood-level characteristics on the number of use of force incidents that occurred within a census tract as well as the cumulative severity of force used in those same incidents. To do this, they aggregated use of force events and severity to the census tract level and estimated the independent effects of six neighborhood and demographic characteristics on that force. These variables included: crime rate, median household income, percentage of college-educated residents, homeownership rates, percentages of Black/African American or Hispanic/Latino residents. The percentages of Black/African American or Hispanic/Latino residents helped test whether disparities persisted after controlling for these characteristics.

What they found was that both the use of force and severity models yielded a disproportionate amount of force in neighborhoods with higher percentages of Black/African American or Hispanic/Latino residents. That said, the percentage of Black/African American residents had a larger effect than that of Hispanics/Latinos. It was noted that even a one point rise in the percentage of Black/African American residents increased the expected number of use of force incidents by 2.6 percent, when holding all other variables constant.

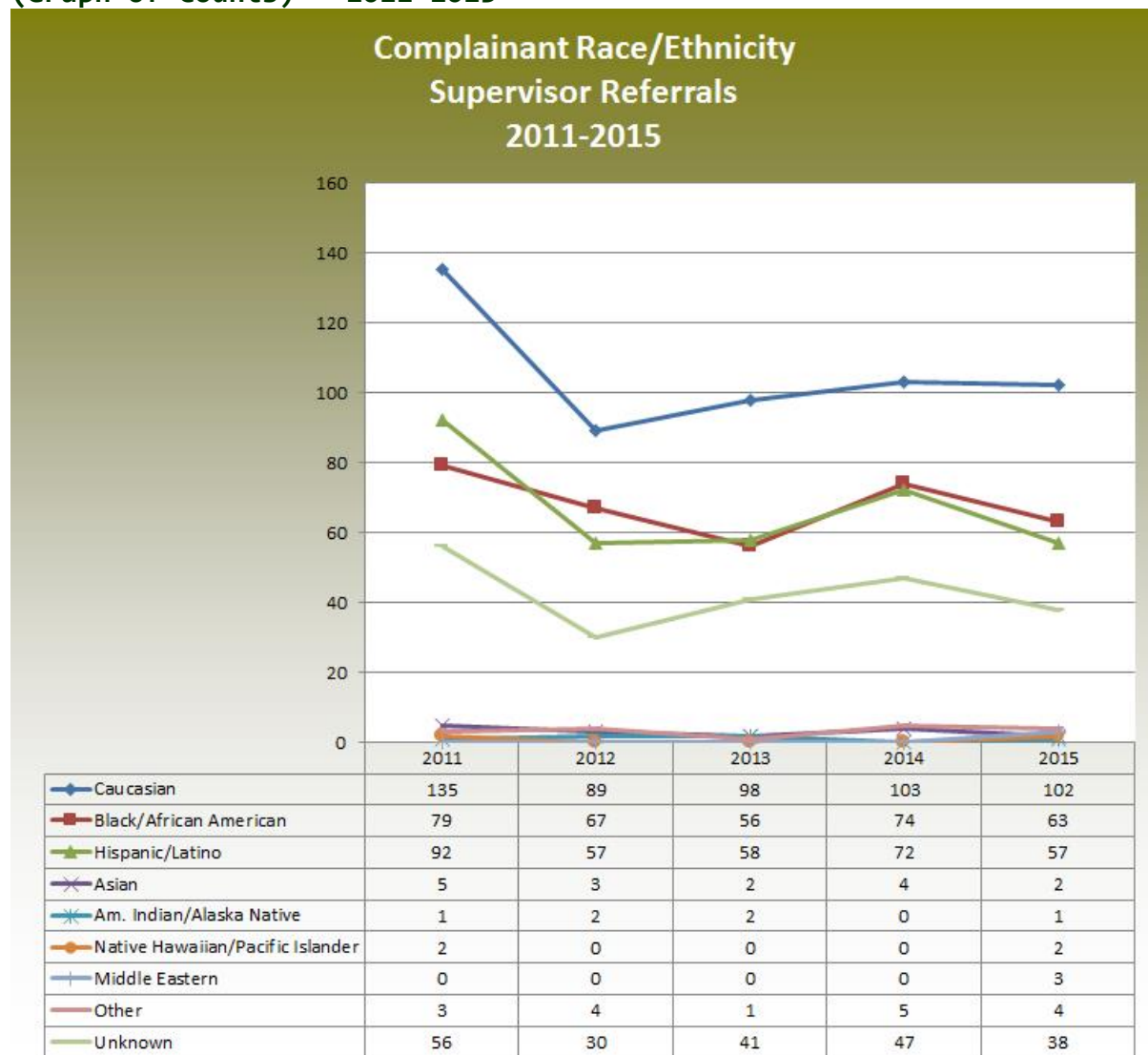
While in the 2016 *Science of Policing Equity* report, the researchers believed that a number of racial disparities may be related to community-level explanations, this was not the case with the use of force data. The report found that even when controlling for neighborhood crime levels, education levels, home ownership, income, youth and employment, racial disparities in both use and severity of force still existed.

While in the report researchers did not believe these used of force disparities to be direct evidence of racial prejudice, they did, however, cite police-level and/or

relationship level concerns. To counteract these, they suggested additional training and policy reviews conducted by both external sources for police-level concerns. For relationship-level concerns, they recommended additional transparency, listening to community voices and highlighting procedural justice. The OPM wholeheartedly agrees with these recommendations.

Moving on to Supervisor Referral complaints, in terms of quantity, Supervisor Referrals were down in 2015 to 272 from 305 in 2014. As the number of complaints filed, Caucasians filed one less in 2015 than was filed in 2014. Blacks/African Americans and Hispanics/Latinos also filed fewer, 15 (↓ 21%) and 11 (↓ 15%), respectively.

**Table 15: Supervisor Referrals Complainant Race/Ethnicity
(Graph of Counts) – 2011-2015**



**Table 16: Supervisor Referrals Complainant Race/Ethnicity
(Table of Counts & Percentages) – 2011-2015**

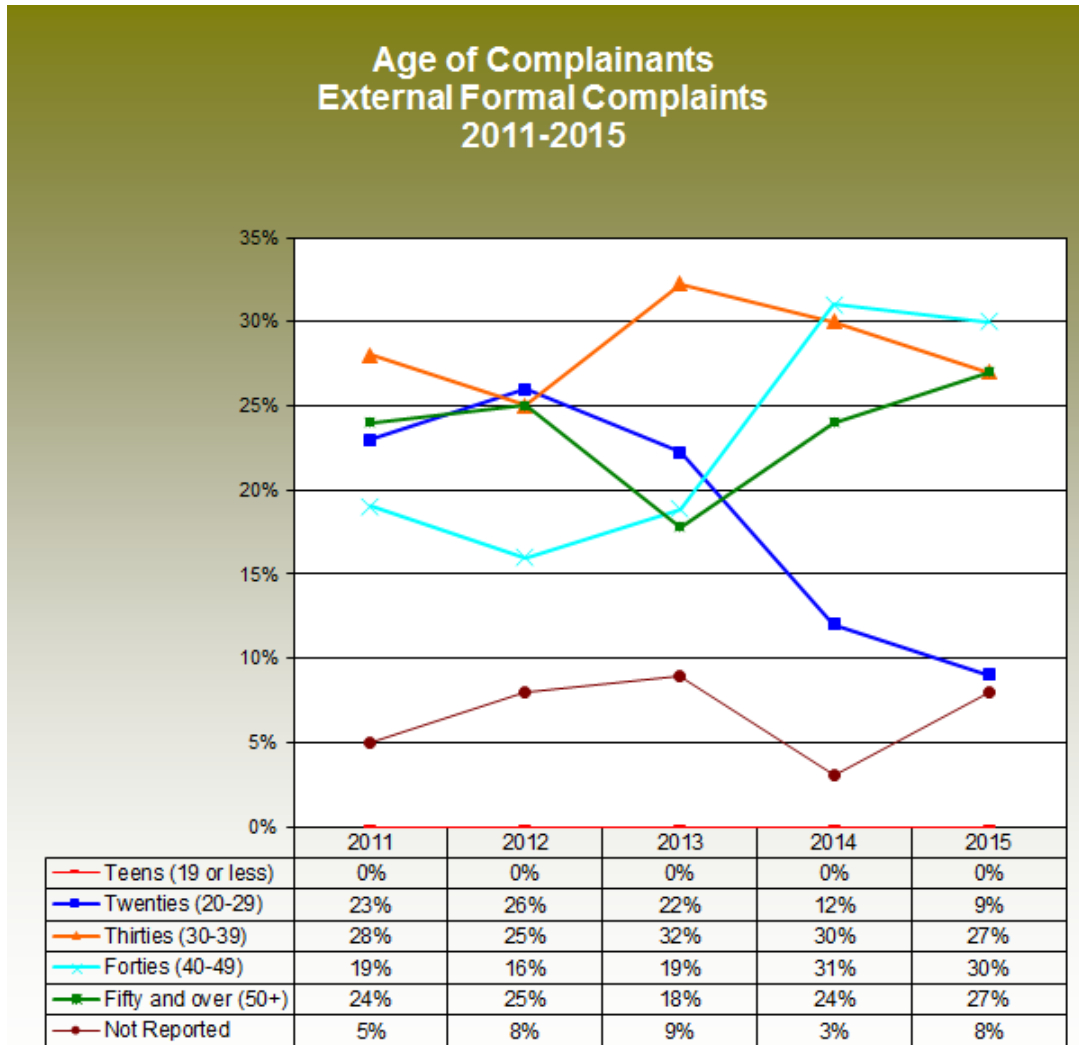
Ethnicity/Race	Supervisor Referrals									
	2011		2012		2013		2014		2015	
	#	%	#	%	#	%	#	%	#	%
Caucasian	135	36%	89	35%	98	38%	103	34%	102	38%
Black/African American	79	21%	67	27%	56	22%	74	24%	63	23%
Hispanic/Latino	92	25%	57	23%	58	22%	72	24%	57	21%
Asian	5	1%	3	1%	2	1%	4	1%	2	1%
Am. Indian/Alaska Native	1	0%	2	1%	2	1%	0	0%	1	0%
Native Hawaiian/Pacific Islander	2	1%	0	0%	0	0%	0	0%	2	1%
Middle Eastern	0	0%	0	0%	0	0%	0	0%	3	1%
Other	3	1%	4	2%	1	0%	5	2%	4	1%
Unknown	56	15%	29	12%	41	16%	47	15%	38	14%
Total	373	100%	251	100%	258	100%	305	100%	272	100%

*May not total to 100% due to rounding.

Age of Complainants

People in their 40s had the highest percentage of complaints in 2015—almost one-third of all External Formal complaints. People in their 50s and those in their 30s filed at the same rate. People in their 20s filed at their lowest rate in five years.

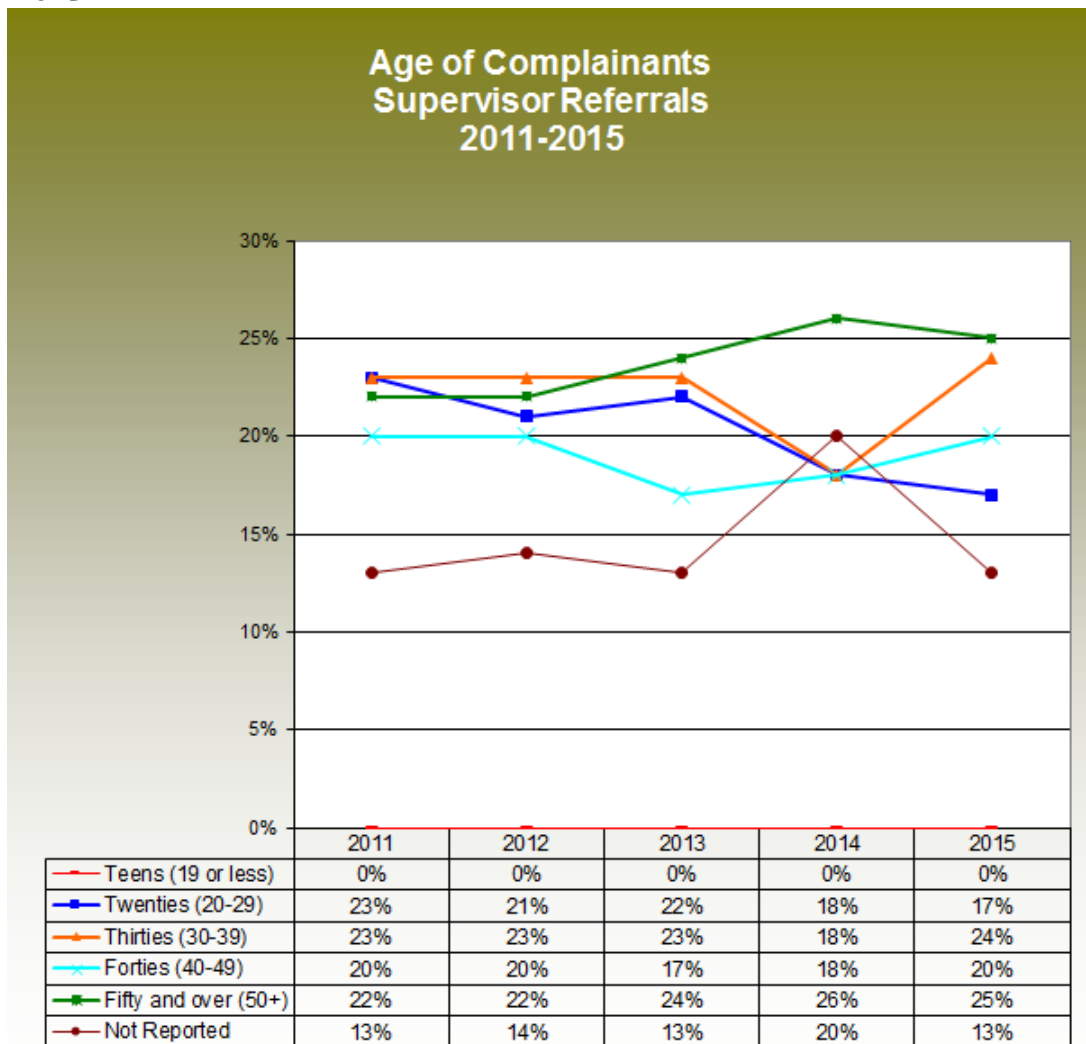
Table 17: Age of Complainants filing External Formal Complaints - 2011-2015



*May not total to 100% due to rounding.

The age of persons filing Supervisor Referral complaints has remained relatively consistent over the past four years. In 2015, the percentage of Supervisor Referral complaints was fairly evenly distributed and down slightly for most people under 50 and up slightly for those 50 years of age and older. Unfortunately, the largest percentage of change was among people who refused to provide their age.

Table 18: Age of Complainants filing Supervisor Referrals – 2011-2015



*May not total to 100% due to rounding.

Gender of Complainants

The gender composition of Austin in 2015 was estimated at approximately 53% male and 47% female. When looking at complainant gender (below), it can be seen that, overall, people file complaints at a rate that is fairly consistent with their representation in the population. However, there are notable disparities between the type of complaint and the population percentages. Males file External Formal complaints at a rate higher than their representation within the City (70% of complaints; 53% of the population) while females file at a rate lower (28% of complaints; 47% of the population).

With Supervisor Referrals, the difference is less pronounced with men filing 51% of complaints. Women filed 47% of complaints which is on par with their representation in the City.

External Formal complaints were up for men in 2015 (66% in 2014 versus 70% in 2015). The rate for women was down (31% in 2014 versus 28% in 2015).

Table 19: Gender of Complainants - 2015

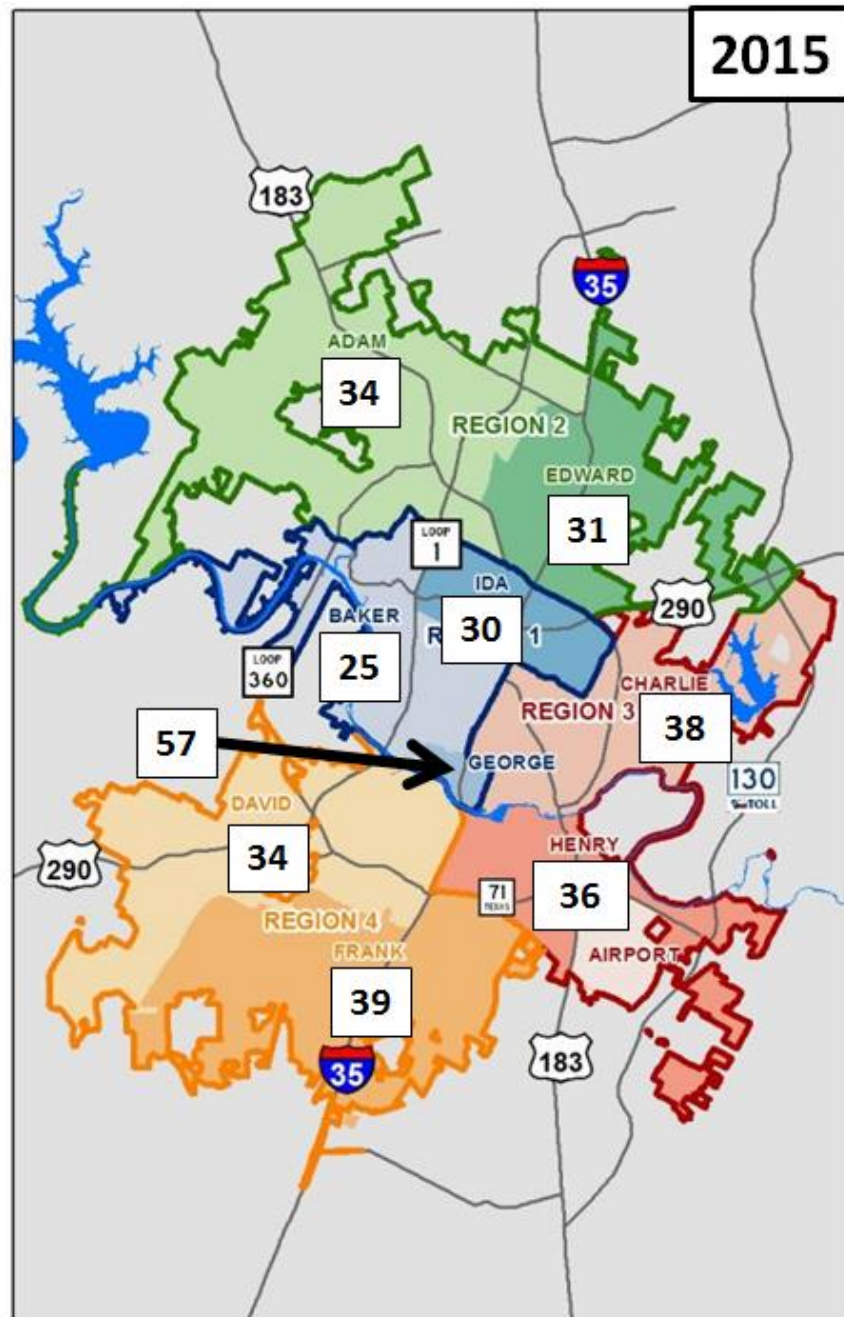
Complainant Gender	Supervisor Referrals		External Formals		Total	
	#	%	#	%	#	%
Male	139	51%	45	70%	184	55%
Female	127	47%	18	28%	145	43%
Unknown	6	2%	1	2%	7	2%
Total	272	100%	64	100%	336	100%

*May not total to 100% due to rounding.

Complaints by Area Command

The City of Austin had nine (9) area commands in 2015. Below find a map of the geographic areas and their respective external complaint numbers.

Figure 3: APD Area Commands



Adam = **Northwest** (NW); Baker = **Central West** (CW); Charlie = **Central East** (CE);
David = **Southwest** (SW); Edward = **Northeast** (NE); Frank = **Southeast** (SE);
George = **Downtown** (DTAC); Henry (includes APT) = **South Central** (SC); Ida = **North Central** (NC)

The area commands listed here are where the incident occurred, regardless of the officer's actual assigned area.

Table 20: External Formal Complaints by Area Command – 2011-2015

EXTERNAL FORMAL	2011		2012		2013		2014		2015		Change 2015 vs. 2014	
Area Command	#	%	#	%	#	%	#	%	#	%	#	%
Downtown (DTAC)	16	21%	14	16%	18	27%	9	14%	20	31%	11	122%
South Central (SC)	10	13%	6	7%	8	12%	6	9%	7	11%	1	17%
Northwest (NW)	14	18%	5	6%	1	1%	7	11%	6	9%	-1	-14%
Southeast (SE)	9	12%	10	11%	7	10%	5	8%	6	9%	1	20%
North Central (NC)	10	13%	8	9%	7	10%	2	3%	6	9%	4	200%
Central East (CE)	18	24%	2	2%	15	22%	13	20%	5	8%	-8	-62%
Southwest (SW)	6	8%	11	12%	7	10%	4	6%	5	8%	1	25%
Northeast (NE)	10	13%	5	6%	9	13%	9	14%	3	5%	-6	-67%
Central West (CW)	7	9%	5	6%	8	12%	4	6%	3	5%	-1	-25%
Out of City	1	1%	9	10%	9	13%	6	9%	1	2%	-5	-83%
Unknown	2	3%	1	1%	1	1%	2	3%	2	3%	0	0%
Total	103	136%	76	84%	90	134%	67	105%	64	100%	-3	-4%

*May not total to 100% due to rounding.

External Formal complaints as a whole were down in 2015, from 67 to 64. The Downtown area command, which frequently has the most complaints, did so again this year with 20. In a distance second is South Central with seven (7). In a three-way tie for third are the Northwest, Southeast and North Central area commands with six (6) each.

As can be seen in the table below, when adding Supervisor Referral complaints to External Formal complaints, the top four area commands in terms of total complaints shifts a bit when compared to reporting External Formal complaints only. The Downtown area command has the highest number of external-type complaints at 57. It is followed by the Southeast area command with 39 total, Central East with 38 and then the South Central area command with 36.

Table 21: Number of External Complaints by Area Command - 2011-2015

Total External Complaints	2011		2012		2013		2014		2015	
Area Command	#	%	#	%	#	%	#	%	#	%
Downtown (DTAC)	63	13%	36	11%	41	12%	43	13%	57	17%
Southeast (SE)	79	17%	43	13%	31	9%	32	9%	39	11%
Central East (CE)	43	9%	45	14%	54	16%	61	18%	38	11%
South Central (SC)	40	8%	23	7%	42	12%	36	11%	36	11%
Southwest (SW)	58	12%	49	15%	38	11%	40	12%	34	10%
Northwest (NW)	31	7%	29	9%	34	10%	39	11%	34	10%
Northeast (NE)	50	11%	29	9%	37	11%	45	13%	31	9%
North Central (NC)	49	10%	35	11%	24	7%	30	9%	30	9%
Central West (CW)	42	9%	24	7%	27	8%	25	7%	25	7%
Out of City	8	2%	11	3%	16	5%	12	4%	5	1%
Unknown	13	3%	3	1%	4	1%	9	3%	11	3%
Total	526	100%	476	100%	327	100%	348	100%	340	100%

Missing Frequency = 1

*May not total to 100% due to rounding.

In cases where an area command is “Unknown,” it may be that a specific officer could not be identified, the complaint may have been more generic in nature rather than relating to a specific officer, there were patterns of behavior that occurred in varying locations, and/or the location where the complaint occurred could not be specifically identified.

Classification of Complaints

When a Formal complaint is filed, it is sent to IAD with a recommendation for classification. The classification is intended to reflect the severity of the charges, if true. When classifying complaints, IAD uses the following criteria:

- **Administrative Inquiry** – an inquiry into a critical incident, ordered by the Chief, that could destroy public confidence in, and respect for, the APD or which is prejudicial to the good order of the APD;
- **A** – allegations of a serious nature, that include, but are not limited to: criminal conduct, objectively unreasonable force resulting in an injury requiring emergency treatment at a medical facility;
- **B** – allegations of a less serious nature, that include, but are not limited to: less serious violations of APD policy, rules or regulations, objectively unreasonable force with injury or with minor injuries not requiring emergency treatment at a medical facility, negligent damage or loss of property, negligent crashes;

- **C** – allegations that do not fit into a Class A or B category and do not rise to the level of a policy violation, or those that would be best handled through other APD processes (such as training or a performance improvement plan); or,
- **D** – the allegation is not a policy violation, a preliminary investigation using audio or video recordings show the allegation is not true, or the complaint is about the probable cause for arrest or citation.

Please note that only Formal complaints will receive one of the classifications listed above. Supervisor Referrals are not subject to the same classifications as they typically contain less serious allegations.⁸

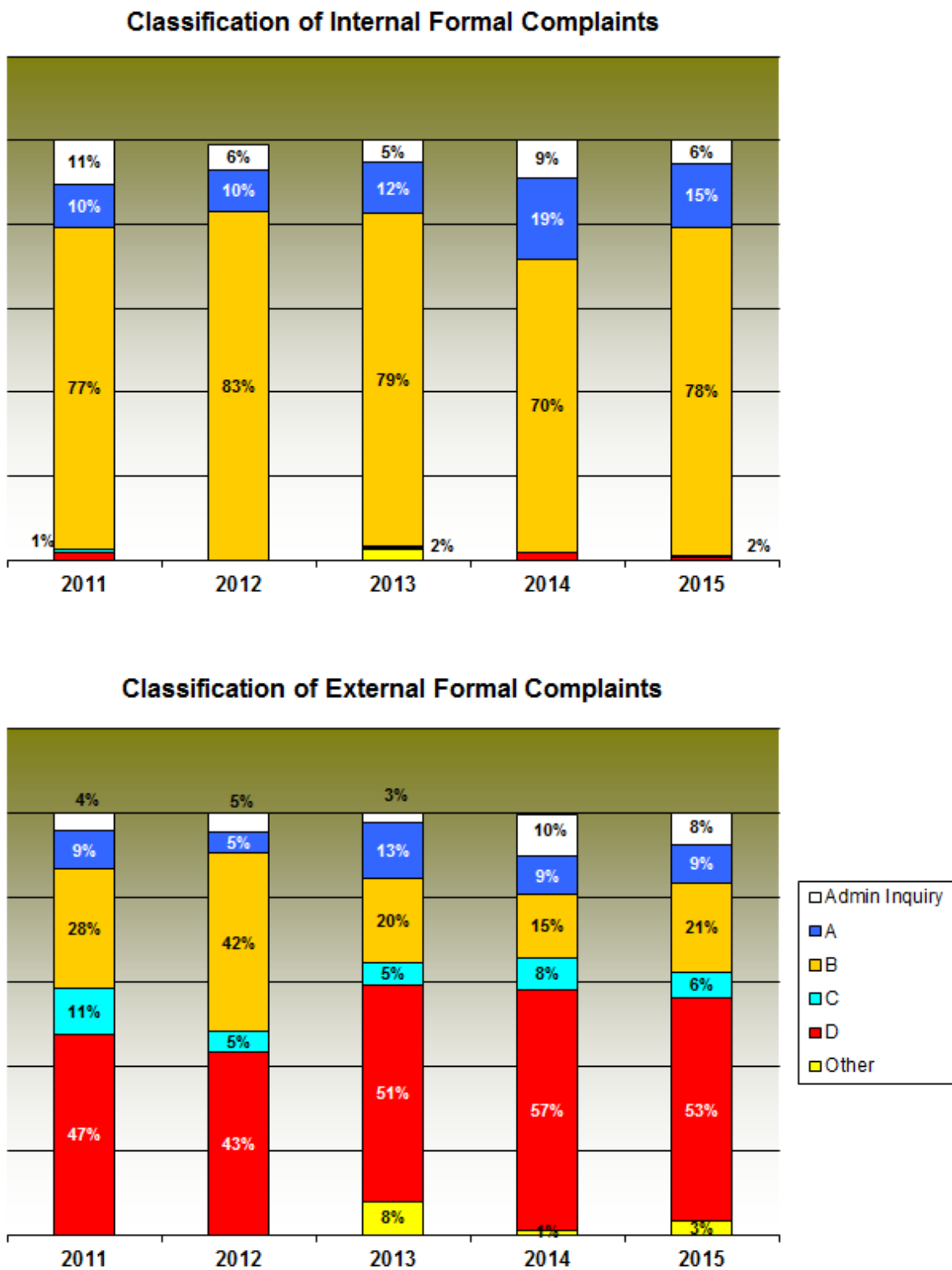
Since the OPM began its mission of oversight, there has been a notable difference in case classifications between external and internal cases. Cases are classified by the IAD according to the severity of the allegations included in the complaint. At this point, it is generally accepted that the discrepancy in case classifications between internal and external complaints has much to do with the cases themselves.

When an internal case is filed, it typically involves a supervisor bringing forth an allegation concerning the conduct of an officer. In these circumstances, the officers bringing the case will have extensive knowledge of policy. The assignment of a classification, therefore, is fairly apparent. As such, Internal Formal complaint classifications have remained relatively static over the years. External Formal complaints have seen more flux.

In 2015, 53% of all External Formal complaints received a “D” classification. This is down slightly from the 57% seen in 2014. The OPM’s concern with “D” classifications stems from the fact that per APD policy, a “D” is defined as a complaint that carries an allegation that is: a) not a policy violation, b) a preliminary review of the allegation shows it is not true (e.g., video or audio recording shows allegation is false), or c) the complaint is about the probable cause for an arrest or citation.

⁸ Should more serious allegations be uncovered during a Supervisor Referral, the case may be elevated to a Formal complaint and would then be classified.

Table 22: Classification of Complaints - 2015



*May not total to 100% due to rounding.

The OPM's position is that caution should be taken when classifying a complaint as a "D." A "D" classification essentially predicts the result of the investigation or precludes actually conducting an investigation. As written, classifying something as a "D" seems to infer from the beginning that IAD has recommended to the chain of command that the allegation has no merit. Complainants whose complaints are classified as a "D" often state they do not feel their complaint was taken seriously.

It should be noted that there are cases for which the OPM recommends a "D" classification or agrees with IAD's case classifications. Beginning in mid-2011, the OPM's procedure was changed to require the OPM to advise IAD as to the classification the OPM believed the complaint should be given when the complaint was submitted. This change allowed the OPM and IAD to discuss differences of opinion early in the process. During 2016, the process was refined further to require review by an assistant chief if an agreement is not reached between the IAD and the OPM. Historically, most of the disagreement in case classifications has stemmed from those cases that were ultimately classified by IAD as lower level cases, e.g., "D" classifications.

Recommendation

APD should take greater care in classifying cases as a "D". If it is not clear on the face of the complaint that it has no merit, the case should be classified as an "A" or "B". If it determined that the officer did not commit a violation, the case should then be "unfounded" as opposed to being administratively closed.

Allegations

Number & Types of Allegations

The Austin Police Department previously used a set of rules known as the General Orders, Policies, and Procedures. In August of 2011, a new Austin Police Department Policy Manual was adopted known as “Lexipol”.⁹ The General Orders, and now Lexipol, contain all the policies by which members of the APD must abide. When a complaint is made, the IAD assigns an allegation(s) based on the alleged policy violations it can see after reviewing the description of events. In 2015, the data show 72 fewer allegations were levied in Formal complaints compared to 2014 – 34 fewer in External Formal complaints and 38 fewer in Internal Formal complaints.

Table 23: Number of Allegations by Complaint Type – 2011-2015

Number of Allegations	2011		2012		2013		2014		2015		Change 2015 vs. 2014	
	#	%	#	%	#	%	#	%	#	%	#	%
Supervisor Referrals	403	43%	215	28%	215	25%	294	35%	351	42%	57	19%
Formal Complaints	530	57%	542	72%	637	75%	553	65%	481	58%	-72	-13%
External	218	40%	187	29%	227	36%	204	37%	170	35%	-34	-17%
Internal	312	58%	355	56%	410	64%	349	63%	311	65%	-38	-11%
Total	933	100%	757	100%	852	100%	847	100%	832	100%	-15	-2%

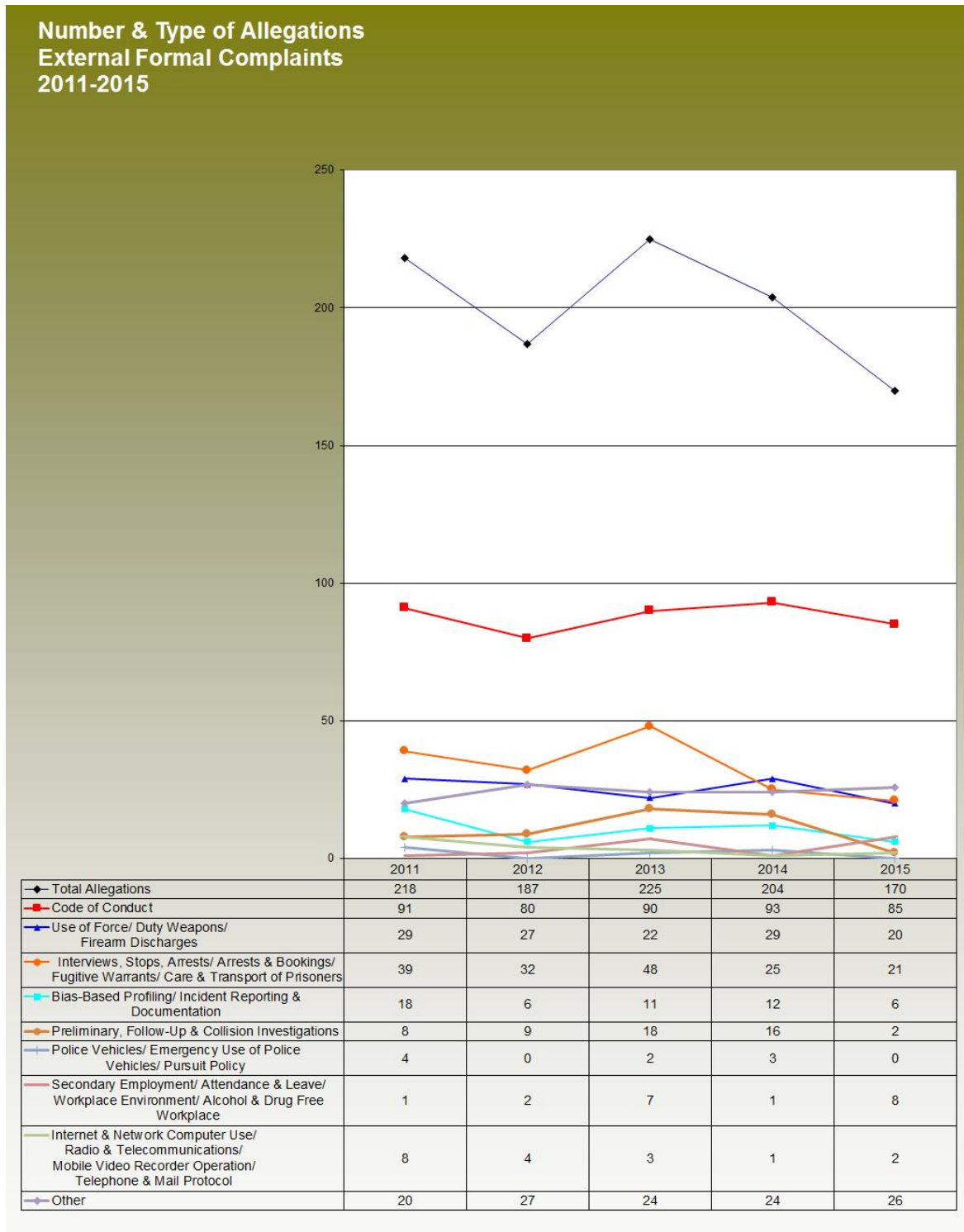
*May not total to 100% due to rounding.

It should be noted that a single complaint may include multiple allegations. These multiple allegations can apply to a single officer or multiple officers. It is also possible that a single allegation may be brought against a single officer or multiple officers. No matter the configuration, since each allegation is counted, the total number of allegations will always equal or exceed the total number of complaints.

In general, the policies in the old General Orders and the new Lexipol are largely the same. There are differences, however, in both the arrangement of the policies as well as their titles. For example, in the General Orders, there is a policy known as “Use of Force.” In Lexipol, this is called “Response to Resistance.” In the General Orders, Code of Conduct policies are primarily contained within one section. In Lexipol, these policies can now be found in three different chapters. Because the OPM reports some data going back five years, we will continue to transition by using both the old and new policy numbers and/or combining data into categories. In 2017, the OPM will be able to switch entirely to Lexipol.

⁹ Lexipol was implemented by the APD in August of 2011. The most recent version of the manual available as of this writing can be found at: http://austintexas.gov/sites/default/files/files/Police/APD-Policy_Manual_August_14_2011_.pdf

Table 24: External Formal Allegations by Number and Type – 2011-2015



As in years past, Code of Conduct-type complaints continue to be the most frequently reported allegation for both Supervisor Referrals as well as External Formal complaints. This has been the case since the OPM began tracking complaints.

Code of Conduct allegations include, but are not limited to, the following:

- **Compliance** – knowing, understanding, complying with, and reporting violations of laws, ordinances, and governmental orders;
- **Individual Responsibilities** – dishonesty, acts bringing discredit to the department, police action when off-duty, etc.;
- **Responsibility to the Community** – courtesy, impartial attitude, duty to identify, etc.;
- **Responsibility to the Department** – loyalty, accountability, duty to take action, etc.; and
- **Responsibility to Co-workers** – relations with co-workers, sexual harassment, etc.

Given that the vast majority of allegations involve Code of Conduct issues and because the Code of Conduct policies are so numerous, the OPM requested that the IAD provide more detail regarding these types of allegations. This does not always happen so based on available data, the Code of Conduct allegations break down as follows:

Table 25: Code of Conduct Allegations by Subcategory and Complaint Type – 2015

Code of Conduct Allegations by Subcategory	Supervisor Referrals		External Formal	
	#	%	#	%
Responsibility to the Community	135	64%	45	53%
General Conduct	76	36%	40	47%
Total	211	100%	85	100%

*May not total to 100% due to rounding.

At the sub-categorical level, there is one allegation listed more often than any other – “Responsibility to the Community.” The Responsibility to the Community subcategory includes policy regarding:

- Impartial Attitude;
- Courtesy;
- Duty to Identify;
- Neutrality in Civil Actions;
- Negotiations on Behalf of Suspect; and
- Customer Service and Community Relations.

“Courtesy” or rudeness is the most frequent complaint made against officers. Most troubling, however, is the allegation of “Impartial Attitude.” The Impartial Attitude policy states that (APD) employees are “expected to act professionally, treat all persons fairly and equally, and perform all duties impartially, objectively, and equitably without regard to personal feelings, animosities, friendships, financial status, sex, creed, color, race, religion, age, political beliefs, sexual preference, or social or ethnic background.” Interesting, there were no Impartial Attitude allegations filed in 2015.

Lexipol captures the behavior previously covered under “Impartial Attitude” and labels it “Bias-Based Profiling.” As a result, there may be some confusion regarding this allegation and one in the General Orders that is also called “Bias-Based Profiling.”

Often in the past, when an allegation regarding bias-based profiling (i.e., prejudicial behavior) was filed, it was filed using the incorrect General Order entitled “Bias-Based Profiling.” The problem with that particular General Order had to do with how this type of act was documented and not the fact that some sort of prejudicial behavior may have occurred. It is fairly easy to see, given the name of this General Order, how it was listed erroneously so often. It should be noted that listing an incorrect General Order did not have an impact on how the investigation proceeded as each case contains a description of events that would have made it clear as to the specific complaint. In other words, this was simply an administrative error.

Even with the Lexipol allegation of “Bias-Based Profiling” available, this allegation was recorded 15 times when External Formal complaints and Supervisor Referral complaints are combined. In addition to these 18 allegations, the OPM identified an additional three times in External Formal complaints and seven times in Supervisor Referral complaints where the complainant stated they believed the APD acted prejudicially toward them.

Table 26: Number and Type of Allegations by Complaint Type - 2015

Allegation/Allegation Category	2015					
	SR		External Formal		Internal Formal	
	#	%	#	%	#	%
Code of Conduct	211	60%	85	50%	70	23%
Use of Force/ Duty Weapons/ Firearm Discharges	11	3%	20	12%	38	12%
Interviews, Stops, Arrests*/ Arrests & Bookings/ Fugitive Warrants/ Care & Transport of Prisoners	40	11%	21	12%	8	3%
Bias-Based Profiling/ Incident Reporting & Documentation	12	3%	6	4%	9	3%
Preliminary, Follow-Up & Collision Investigations	44	13%	2	1%	3	1%
Police Vehicles/ Emergency Use of Police Vehicles/ Pursuit Policy	7	2%	0	0%	124	40%
Secondary Employment/ Attendance & Leave/ Workplace Environment/ Alcohol & Drug Free Workplace	0	0%	8	5%	16	5%
Internet & Network Computer Use/ Radio & Telecommunications/ Mobile Video Recorder Operation/ Telephone & Mail Protocol	0	0%	2	1%	2	1%
Other	26	7%	26	15%	39	13%
Total	351	100%	170	100%	309	100%

*** Includes Searches**

*May not total to 100% due to rounding.

Allegations & Complainant Demographics

In looking at the composition of complainants who brought allegations in 2015, the OPM found that in External Formal complaints, Caucasians were responsible for 33% of all allegations (56 of the 170 allegations). Blacks/African Americans accounted for 36 of the 170 (21%) and Hispanics/Latinos accounted for 41 of the 170 (24%). Asians accounted for 24 of the 170 (14%).

Table 27: External Formal Allegations by Complainant Race/Ethnicity - 2015

EXTERNAL FORMALS	Caucasian		Black/ African American		Hispanic/ Latino		Asian		Am Indian/ Alaska Native		Native Hawaiian/ Pacific Islander		Middle Eastern		Other		Unknown	
Allegation Category	#	%	#	%	#	%	#	%	#	%	#	%	#	%	#	%	#	%
Code of Conduct	32	57%	16	44%	27	66%	5	21%	0	0%	0	0%	1	100%	1	25%	3	38%
Use of Force/ Duty Weapons/ Firearm Discharges	3	5%	7	19%	1	2%	7	29%	0	0%	0	0%	0	0%	0	0%	2	25%
Interviews, Stops, Arrests/ Arrests & Bookings/ Fugitive Warrants/ Care & Transport of Prisoners	7	13%	8	22%	4	10%	0	0%	0	0%	0	0%	0	0%	2	50%	0	0%
Bias-Based Profiling/ Incident Reporting & Documentation	1	2%	0	0%	2	5%	1	4%	0	0%	0	0%	0	0%	0	0%	2	25%
Preliminary, Follow-Up & Collision Investigations	0	0%	2	6%	0	0%	0	0%	0	0%	0	0%	0	0%	0	0%	0	0%
Police Vehicles/ Emergency Use of Police Vehicles/ Pursuit Policy	0	0%	0	0%	0	0%	0	0%	0	0%	0	0%	0	0%	0	0%	0	0%
Secondary Employment/ Attendance & Leave/ Workplace Environment/ Alcohol & Drug Free Workplace	1	2%	0	0%	4	10%	3	13%	0	0%	0	0%	0	0%	0	0%	0	0%
Internet & Network Computer Use/ Radio & Telecommunications/ Mobile Video Recorder Operation/ Telephone & Mail Protocol	0	0%	0	0%	2	5%	0	0%	0	0%	0	0%	0	0%	0	0%	0	0%
Other	12	21%	3	8%	1	2%	8	33%	0	0%	0	0%	0	0%	1	25%	1	13%
Total	56	100%	36	100%	41	100%	24	100%	0	0%	0	0%	1	100%	4	100%	8	100%

Frequency Missing = 0

*May not total to 100% due to rounding.

Code of Conduct issues make up more than half of the allegations (57%) cited by Caucasians in External Formal complaints, were 44% of the allegations cited by Blacks/African Americans, were cited 66% of the time among Hispanics/Latinos and were cited 21% of the time among Asians.

Blacks/African Americans and Asians levied the most Use of Force/Response to Resistance allegations, seven each. This was more than any other racial group. Caucasians filed three (3).

Blacks/African Americans also levied the most Interviews, Stops and Arrests allegations in External Formal complaints with 8 (22% of their filed allegations). Caucasians levied seven (13% of their allegations).

In Supervisor Referral complaints, Code of Conduct issues are almost always cited most often and that is the case again this year. Over half of the allegations from Caucasians, Blacks/African Americans and Hispanics/Latinos are Code of Conduct (56%, 64% and

69%, respectively). This is up from last year when the percentages were 49% for Caucasians, 56% for Blacks/African Americans and 56% for Hispanics/Latinos.

Table 28: Supervisor Referral Allegation Categories by Complainant Race/Ethnicity - 2015

SUPERVISOR REFERRALS	Caucasian		Black/ African American		Hispanic/ Latino		Asian		Am Indian/ Alaska Native		Native Hawaiian/ Pacific Islander		Middle Eastern		Other		Unknown	
	#	%	#	%	#	%	#	%	#	%	#	%	#	%	#	%	#	%
Code of Conduct	75	56%	52	64%	49	69%	1	50%	0	0%	8	89%	2	50%	2	50%	22	48%
Use of Force/ Duty Weapons/ Firearm Discharges	9	7%	1	1%	0	0%	0	0%	0	0%	0	0%	0	0%	1	25%	0	0%
Interviews, Stops, Arrests/ Arrests & Bookings/ Fugitive Warrants/ Care & Transport of Prisoners	12	9%	10	12%	9	13%	0	0%	0	0%	0	0%	0	0%	1	25%	8	17%
Bias-Based Profiling/ Incident Reporting & Documentation	2	1%	6	7%	2	3%	0	0%	0	0%	0	0%	0	0%	0	0%	2	4%
Preliminary, Follow-Up & Collision Investigations	18	13%	6	7%	6	8%	0	0%	0	0%	0	0%	2	50%	0	0%	12	26%
Police Vehicles/ Emergency Use of Police Vehicles/ Pursuit Policy	5	4%	1	1%	0	0%	0	0%	0	0%	0	0%	0	0%	0	0%	1	2%
Secondary Employment/ Attendance & Leave/ Workplace Environment/ Alcohol & Drug Free Workplace	0	0%	0	0%	0	0%	0	0%	0	0%	0	0%	0	0%	0	0%	0	0%
Internet & Network Computer Use/ Radio & Telecommunications/ Mobile Video Recorder Operation/ Telephone & Mail Protocol	0	0%	0	0%	0	0%	0	0%	0	0%	0	0%	0	0%	0	0%	0	0%
Other	13	10%	5	6%	5	7%	1	50%	0	0%	1	11%	0	0%	0	0%	1	2%
Total	134	100%	81	100%	71	100%	2	100%	0	0%	9	100%	4	100%	4	100%	46	100%

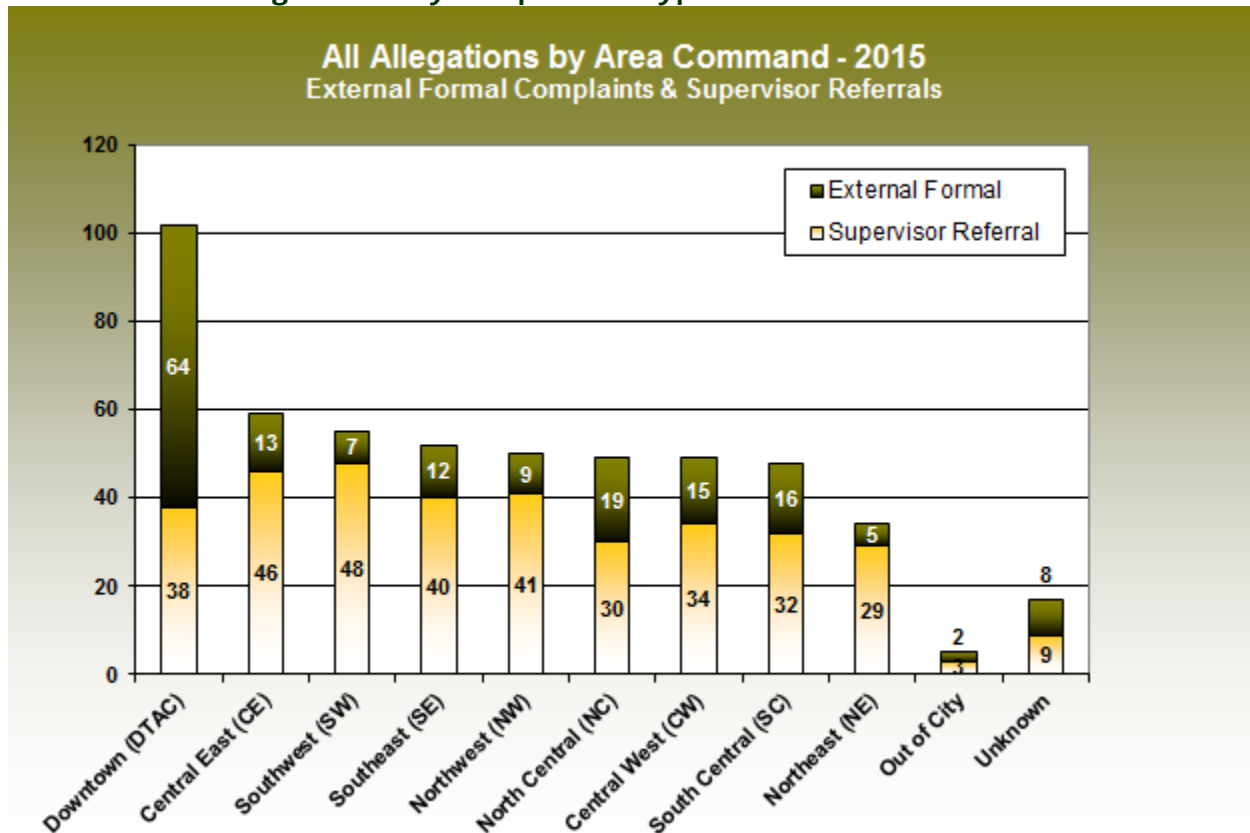
*May not total to 100% due to rounding.

Allegations by Area Command

Fewer complaints results in fewer allegations and that is the case in 2015.

When combining allegations for both Supervisor Referrals and External Formal complaints, the area command with the highest number of allegations was Downtown with 102. This was followed by Central East and Southwest with 59 and 55, respectively. The Southeast area command was fourth with 52 allegations total.

Table 29: Allegations by Complaint Type and Area Command - 2015



About two-thirds of Downtown's allegations were Code of Conduct related. There were 38 Code of Conduct allegations in External Formals and 28 in Supervisor Referrals.

Table 30: Code of Conduct Allegations by Complaint Type and Area Command - 2015

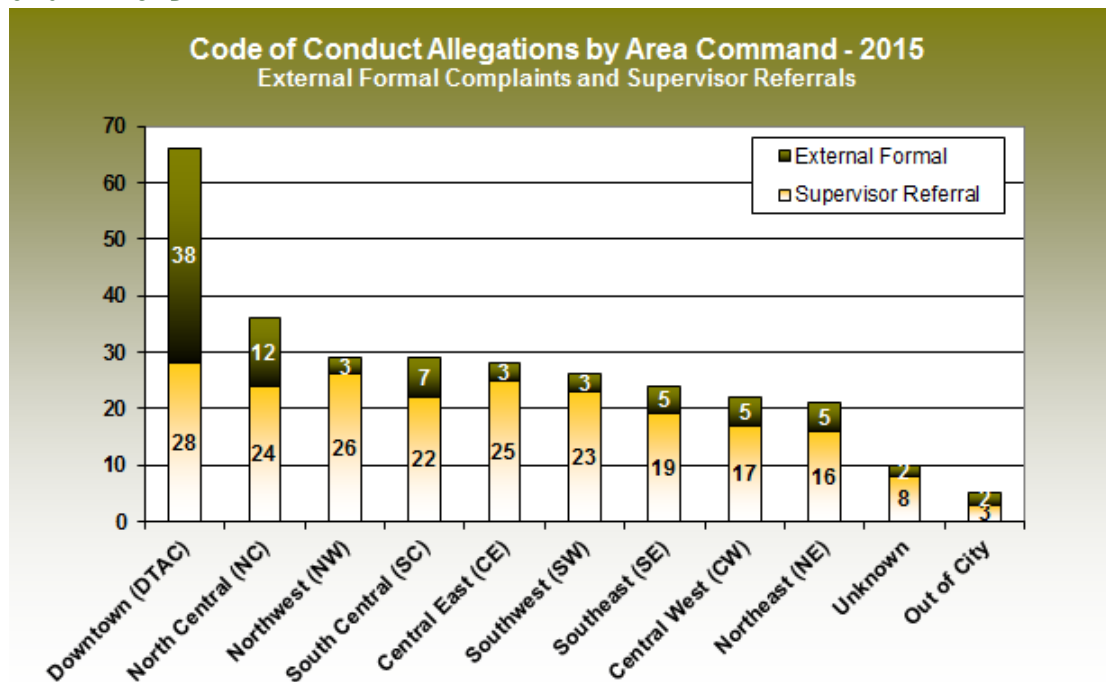
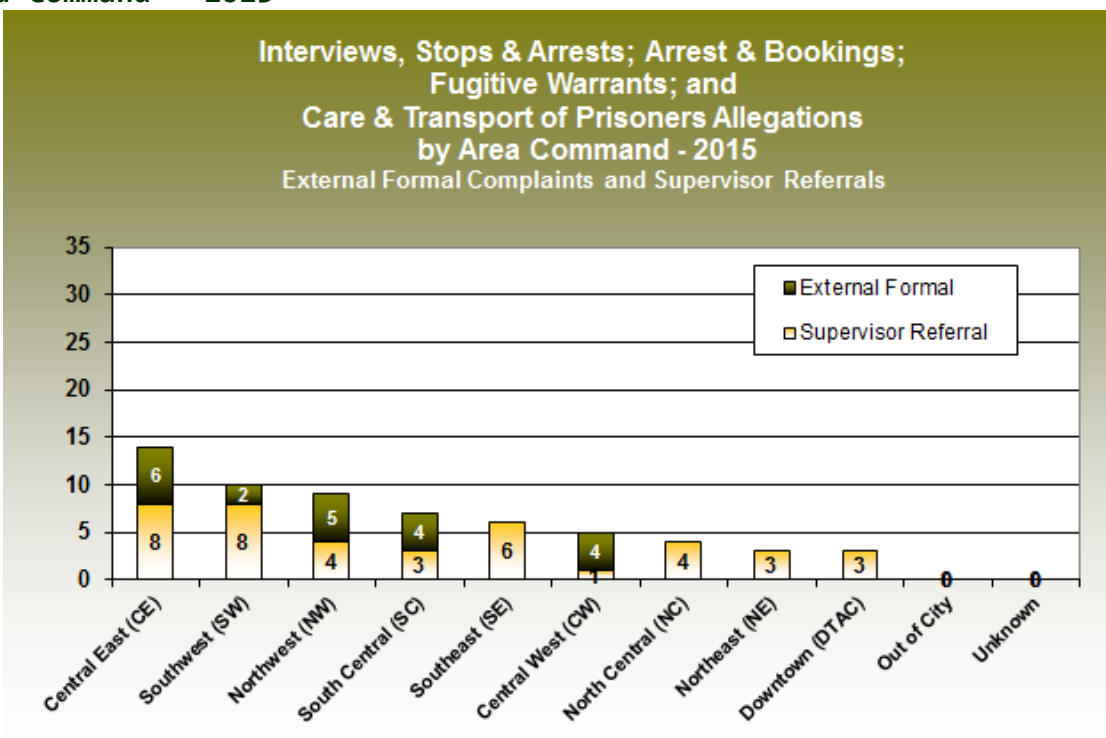


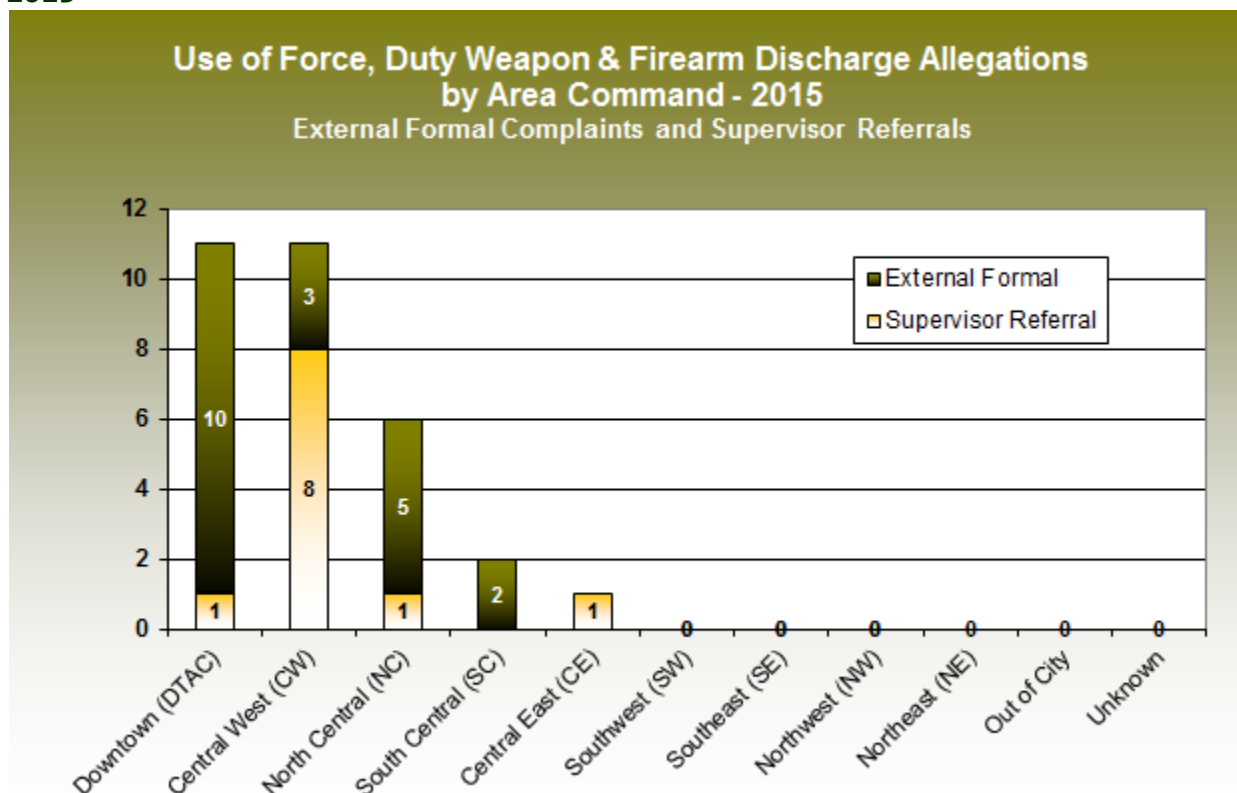
Table 31: Interviews, Stops & Arrests, et al by Complaint Type and Area Command - 2015



Central East had the most Interviews, Stop and Arrests allegations at 14.

Downtown and Central West had the most Use of Force complaints at 11 each. South Central was second with six.

Table 32: Use of Force, et al by Complaint Type and Area Command - 2015



In 2015, there were 11 Use of Force/Response to Resistance allegations in Supervisor Referrals and 20 in External Formal complaints. Of the Response to Resistance allegations associated with External Formal complaints, only four of the nine area commands had at least one Response to Resistance allegation.

The OPM has since 2011, raised concerns regarding the relatively low number of Response to Resistance complaints received by this Office. The concern stems from the fact that the APD in its Response to Resistance reports cites thousands of incidences of use each year. Of these thousands of incidences of use of force, the OPM typically sees less than 50 allegations each year. This does not seem correct. For example, in 2015, there were 3,273 use of force reports involving 1,888 subjects and the OPM saw 20 allegations in External complaints. Internally, there were 38. This makes for a total of 58 allegations. The OPM cannot know how many people who had force used on them even know about the complaint process. Nor can we know how many people simply chose not to make a complaint. Therefore, if we only look at the 38 allegations made

Internally, we can see that 99% of the time force was used, it was deemed to be objectively reasonable by the supervisors reviewing the Response to Resistance reports. While the OPM wishes this were case, we do find it hard to believe especially when cases like the Breiaon King case come to light.

Ms. King was pulled over in the middle of the day in June 2015 for driving 15 miles per hour over the speed limit. Ms. King parked and began to exit her vehicle. The officer involved asked her to return to her vehicle to provide her license and registration. Less than one minute after speaking to her for the first time and less than ten seconds after telling her to put her legs and feet back into her car, the officer grabbed Ms. King out of her car and physically threw her to the ground. After a few more seconds where she is thrown to the ground a second time, she is then arrested and taken to jail. This case went through the normal response to resistance review process at the APD before becoming public. During the normal review process, the use of force in this case was determined to be objectively reasonable.

Another example occurred when Tyrone Wilson was handcuffed (but with his hands in front of him as opposed to behind his back) and sitting in the back of a police van. Mr. Wilson appeared to be kicking the door of the van. An officer standing outside the door, opens the door and pepper sprays Mr. Wilson in the face. He then says to Mr. Wilson, "What did I tell you about kicking the door. I told you." He then closes the door. The officer received a 45-day suspension for this act but only after video surfaced that had been recorded by a private citizen. During the normal APD review process, the use of force in this case was determined to be objectively reasonable.

Recommendation

Given the number of incidents in which the APD uses force, the number of external allegations seems low. In order to ensure that the Response to Resistance policy is being followed, the OPM is recommending that routine audits of Response to Resistance reporting be conducted by the OPM and the APD. If deficiencies are discovered, training, policy development, and/or discipline should be considered.

This recommendation is reinforced by the findings in the 2016 *Science of Policy Equity* report.¹⁰

APD Decisions

Once an investigation is finished, the chain of command makes a recommendation on the outcome of the case. In other words, they issue a finding. These findings fall into one of the following categories:

- **Exonerated** – The incident occurred but is considered lawful and proper.

¹⁰ Ibid.

- **Sustained** – The allegation is supported or misconduct discovered during investigation.
- **Unfounded** – The allegation is considered false or not factual.
- **Inconclusive** – There is insufficient evidence to prove/disprove the allegation.
- **Administratively Closed** – No allegations were made or misconduct discovered and/or the complaint was closed by a supervisor.

Table 33: Formal Complaint APD Investigative Allegation Decisions – 2011-2015

APD Decisions	External						Internal					
	2013		2014		2015		2013		2014		2015	
	#	%	#	%	#	%	#	%	#	%	#	%
Sustained	16	7%	21	10%	12	7%	259	71%	225	70%	226	77%
Inconclusive	0	0%	0	0%	0	0%	4	1%	4	1%	3	1%
Exonerated	33	15%	3	1%	8	5%	13	4%	5	2%	7	2%
Administratively Closed	123	54%	165	81%	113	66%	63	17%	32	10%	43	15%
Supervisor Referral	0	0%	0	0%	1	1%	0	0%	0	0%	0	0%
Unfounded	55	24%	15	7%	36	21%	25	7%	57	18%	16	5%
Total	227	100%	204	100%	170	100%	364	100%	323	100%	295	100%

NOTE: Numbers shown here may be lower than the total number of allegations due to resignations/retirements

*May not total to 100% due to rounding.

In 2015, 7% of allegations in External Formal allegations were Sustained. This is down a bit from 2014 when it was 10%. The percent of allegations that were Administratively Closed in 2015 was 66%. This is a large decrease over 2014 when 81% were closed administratively.

As a matter of routine, all cases classified as a “D” are “Administratively Closed.” In addition to the “D” cases, many others are also “Administratively Closed.” The OPM continues to advocate that “Administratively Closed” be used sparingly. It is the opinion of the OPM that making a finding (e.g., “Sustained,” “Exonerated,” or “Unfounded”) regarding the conduct of an officer adds credence to the process. There are likely several factors within the APD that are driving the decision to Administratively Close an allegation as opposed to rendering a more definitive decision. The OPM believes these include, among others, issues related to the APD’s policies and the relationship between allegation decisions and the APD’s early intervention system.

The OPM is encouraged that, for the fourth year in a row, no External cases were found to be inconclusive. While inconclusive may sometimes be the appropriate finding if an investigation could not sort out whether the conduct occurred or not, if investigations are conducted fairly and thoroughly, it should be a rare finding. However, the OPM is concerned that when there is a discrepancy between the officer's version of an incident

and the complainant's version of the incident that the officer's version is given more weight unless there is undeniable video evidence to the contrary.

The percentage of External cases determined to be Unfounded was up in 2015 to 21%. This translates to 36 of the 170 External Formal allegations were found to have no merit if they were actually investigated. However, as noted above, the OPM feels the APD is much too likely to Administratively Close a case without investigation.

The percentage of Internal Formal allegations that were Sustained in 2015 was 77%. This is up a bit from 2014 and 2013.

Of the 36 allegations filed by Blacks/African Americans in External Formal complaints, none were Sustained at the conclusion of the investigation. The OPM disagreed with 6% of these results. Of the 41 allegations filed by Hispanics/Latinos just two were Sustained. The rest were either Administratively Closed or Unfounded. The OPM disagreed with 41% of these results. Caucasians filed 56 allegations. Eight of these were Sustained, eight were Exonerated, 13 were determined to be Unfounded and 27 were Administratively Closed. The OPM disagreed with the outcomes of these cases 34% of the time.

Table 34: Formal Complaint APD Investigative Allegation Decisions By Complainant Race/Ethnicity

External Formal x Complainant	Caucasian		Black/African American		Hispanic/ Latino		Asian		Middle Eastern		Other		Unknown		Total	
	#	%	#	%	#	%	#	%	#	%	#	%	#	%	#	%
APD Decisions																
Sustained	8	14%	0	0%	2	5%	1	100%	0	100%	0	100%	1	100%	12	7%
Inconclusive	0	0%	0	0%	0	0%	0	0%	0	0%	0	0%	0	0%	0	0%
Exonerated	8	14%	0	0%	0	0%	0	0%	0	0%	0	0%	0	0%	8	5%
Supervisor Referral	0	0%	1	0%	0	0%	0	0%	0	0%	0	0%	0	0%	1	1%
Administratively Closed	27	48%	32	0%	21	0%	21	0%	1	0%	4	0%	7	0%	113	66%
Unfounded	13	23%	3	0%	18	50%	2	0%	0	0%	0	0%	0	0%	36	21%
Total	56	100%	36	0%	41	55%	24	100%	1	100%	4	100%	8	100%	170	100%

Disciplinary Action

After an investigation is completed and if allegations against an officer are sustained, the chain of command will then administer discipline. Discipline ranges from oral counseling and/or a reprimand to being Indefinitely Suspended (i.e., terminated). When looking at the table below, it is important to remember that disciplinary action is related to each unique allegation and not to the number of cases or the number of individual officers. So, for example, 22 officers were not terminated in 2011; there were, however, 22 allegations from which Indefinite Suspensions stemmed. In 2015, there were no officers Indefinitely Suspended as a result of an external complaint. In fact, just 10 of the 170 allegations resulted in any discipline at all. One officer received education-based discipline relative to one allegation, two officers received oral reprimands relative to three allegations, two officers received written reprimands relative to three allegations, and one officer was suspended relative to three allegations.

The APD provides guidelines for the type and severity of discipline that may be administered. These guidelines are called the “Discipline Matrix.” A copy of the matrix is attached in Appendix B.

Table 35: External Formal Complaint Disciplinary Action – 2011-2015

EXTERNAL	2011		2012		2013		2014		2015		2015 vs. 2014
Disciplinary Action Taken	#	%	#	%	#	%	#	%	#	%	% Change
Oral Reprimand / Counseling	5	12%	3	18%	4	25%	2	10%	3	25%	50%
Education-Based Discipline**	**	**	**	**	**	**	**	**	1	8%	100%
Written Reprimand	10	23%	4	24%	12	75%	7	33%	5	42%	-29%
Days Suspension	6	14%	5	29%	0	0%	3	14%	3	25%	300%
Indefinite Suspension / Termination*	22	51%	5	29%	0	0%	9	43%	0	0%	900%
Demotion	0	0%	0	0%	0	0%	0	0%	0	0%	0%
Total	43	100%	17	100%	16	100%	21	100%	12	100%	-43%

* Includes Resignations and Retirements while officer was under investigation

** Discipline category introduced in 2014

*** May not total to 100% due to rounding

The table below comprises the disciplinary action taken on each allegation filed in Internal Formal complaints in 2015.

Table 36: Internal Formal Complaint Disciplinary Action – 2011-2015

INTERNAL	2011		2012		2013		2014		2015		2015 vs. 2014
Disciplinary Action Taken	#	%	#	%	#	%	#	%	#	%	% Change
Oral Reprimand / Counseling	86	32%	99	36%	84	28%	63	26%	88	37%	40%
Education-Based Discipline**	**	**	**	**	**	**	1	<1%	5	2%	400%
Written Reprimand	92	34%	92	34%	93	31%	106	43%	79	33%	-25%
Days Suspension	69	25%	48	18%	65	22%	45	18%	31	13%	-31%
Indefinite Suspension / Termination*	25	9%	32	12%	57	19%	30	12%	37	15%	23%
Demotion	0	0%	1	<1%	1	<1%	0	0%	1	0%	100%
Total	272	100%	272	100%	300	100%	245	100%	241	100%	-2%

* Includes Resignations and Retirements while officer was under investigation

** Discipline category introduced in 2014

*** May not total to 100% due to rounding

There were six more Internal Formal complaints than last year, but slightly less discipline administered (↓ 2%). There were more oral reprimands and/or counseling than last year, fewer written reprimands and fewer suspensions. However, there were more allegations resulting in indefinite suspensions. There were 17 terminations in 2015 relative to 37 allegations in Internal Formal complaints. Two officers retired, five resigned, one officer resigned while under investigation, and nine received Indefinite Suspensions. Sixteen officers received suspensions relative to 31 allegations.

Subject Officer Demographics

Presented in this section is some background information on the officers that were the subject of complaints in 2015. All tables contain information based on officers named in complaints filed by members of the public only, i.e., External Formal complaints and Supervisor Referrals unless otherwise noted as "All APD." Please note that it is possible for a single officer to be involved in more than one complaint and in more than one type of complaint. Therefore, the data presented in the tables below may count the same officer more than once if that officer was the subject of more than one complaint.

Years of Service

Over half of the officers within the APD have 10 or more years of service.

Table 37: Years of Service - All APD - 2015

Years of Service	All APD Sworn Personnel	
	#	%
0-3	318	18%
4-6	205	12%
7-9	253	14%
10+	976	56%
Total	1,752	100%

Missing Frequency = 0

*May not total to 100% due to rounding.

For those with complaints in 2015, the average length of time the officer had served on the force until the date of the incident with the public was 8.3 years for Supervisor Referrals and 10.9 years for Formal complaints. Last year, the average length of service was 7.1 years for those with a formal complaint. Officers with 10 or more years of experience made up over half of the police force in 2015. Officers with less than three years of experience made up the second largest group. Officers with 7-9 years of experience outnumbered those with 4-6 years of experience (in 2014 it was the other way around) but this is because a large portion with six years of experience in 2014, are at seven years of experience in 2015.

The most common length of time officers have been on the force before receiving their first complaint in 2015 was 7.2 years for Supervisor Referrals and 10.5 years for External Formal complaints. Last year, the most common length of time for Supervisor Referrals was 7.9 years and 2.4 years for External Formal complaints.

Table 38: Subject Officer Years of Service - 2015

Years of Service	2015	
	Supervisor Referrals	External Formals
Average tenure	8.3	10.9
Longest tenure	32.6	25.7
Shortest tenure	<1	<1
Tenure midpoint	7.2	10.5
Most common tenure	<1	21.8

The 10.9 years as the average experience length in External Formal complaints is above the 7-9 years we usually see. However, as the majority of the APD now has 10 or more years of experience, this number as well as seeing 10.5 years as the experience midpoint is not all that surprising. It is not new to see officers with 10 or more years of experience receiving complaints. The fact that complaints go down in some years does not appear to be a function of any proactive attempt to provide additional training by the APD, it is merely a normal ebb and flow.

While the OPM has limited access to shift data, the OPM has tried to replicate, to the best of its ability, patrol assignments by years of experience in the following table.

Table 39: 2015 Patrol Assignments - All APD

Patrol Area	Years of Service				
	0-3	4-6	7-9	10+	Total
DTAC	25	16	20	38	99
Northwest	28	20	6	34	88
Northeast	43	10	11	25	89
Southwest	16	7	10	39	72
North Central	22	15	5	23	65
Central West	21	9	8	31	69
Southeast	14	11	14	26	65
Central East	26	15	10	31	82
South Central	27	15	15	27	84
Total	222	118	99	274	713
Percent of Patrol Total	31%	17%	14%	38%	100%
Patrol Percent of All APD (1,752 Sworn Personnel)	13%	7%	6%	16%	41%

Officers with 0-3 years of experience made up 13% of the total number of sworn officers in 2015. However, these new officers made up 31% of the patrol force. The patrol force accounts for 70% of the assignments for officers of this experience level. This is lower than has been typical for the APD the past two years but not unusual given that officers must have several years of experience before they are considered for specialized units or can test for promotion.

For the past couple of years, the OPM reported that many areas of the City had a disproportionate number of the 0-3 years of experience officers assigned. This seems to be less pronounced in 2015 with the Central East area command being the exception with a full 48% of officers on patrol having had three or less years of experience with the APD.

The Northeast area command had the second highest total number of officers on patrol in 2014 and 2015. It experienced a 12% decrease in crime from 2013 to 2014 and another 4% decrease from 2014 to 2015.

Table 40: 2015 Area Commands Patrolled by Least Experienced Officers

Area Command	Years of Service	
	0-3	10+
	%	%
Central East	48%	28%
Northeast	34%	35%
Central West	32%	39%
North Central	32%	32%
South Central	32%	38%

The Downtown area command had the lowest crime rate in the City going into 2015 and one of the highest percentages of the most experienced officers. The Southwest area command had the highest percentage of the most experienced officers but also had the second highest crime rate in the City. The Southeast area command had the second highest percentage of experienced officers and the third highest crime rate in the City.

Table 41: 2015 Area Commands Patrolled by Most Experienced Officers

Area Command	Years of Service	
	0-3	10+
	%	%
Southwest	22%	54%
Southeast	30%	45%
DTAC	22%	40%

For repeat versus single case subject officers in 2015, the range of experience for those named in complaints varied widely from less than one year to 30 years of service. In 2015, officers with 7.6 years of experience most frequently had two or more complaints. The average for single and repeat complaint officers was 9.3 years and 9.7 years, respectively.

Table 42: Repeat versus Single Case Subject Officer Years of Service - 2015

Years of Service	Repeat Subject Officers	Single Case Subject Officers
Average tenure	9.7	9.3
Longest tenure	30.0	32.6
Shortest tenure	<1	<1
Tenure midpoint	7.6	8.0
Most common tenure	7.6	<1

When looking at External Formal complaints, and then comparing allegation types to years of services, officers with 0-3 years of experience and those with 10 or more years of experience in 2015 had the most number of allegations levied against them, although those with 10+ years had almost double the number of allegations as the 0-3 group. For both of these groups in 2015, the allegation type levied most often was Code of Conduct related. The second most mentioned category was the Interviews, Stops and Arrests category. Nationally, most research points to officer burnout as the primary reason officers receive more complaints involving Code of Conduct after their tenth year of service.

The 21 allegations classified as “Other” include one or two allegations each related to Law Enforcement Authority, Organizational Structure and Responsibility, Traffic Enforcement, Vehicle Towing and Impound, DWI Enforcement, Department Technology and Property and Evidence Collection Procedures.

Table 43: External Formal Allegation Categories by Subject Officer Years of Service - 2015

EXTERNAL FORMAL Allegation Categories	Years of Service									
	0-3		4-6		7-9		10+		Total	
	#	%	#	%	#	%	#	%	#	%
Code of Conduct	14	33%	8	89%	10	40%	46	59%	78	51%
Use of Force/ Duty Weapons/ Firearm Discharges	6	14%	0	0%	5	20%	4	5%	15	10%
Interviews, Stops, Arrests/ Arrests & Bookings/ Fugitive Warrants/ Care & Transport of Prisoners	8	19%	1	11%	3	12%	7	9%	19	12%
Bias-Based Profiling/ Incident Reporting & Documentation	2	5%	0	0%	1	4%	3	4%	6	4%
Preliminary, Follow-Up & Collision Investigations	1	2%	0	0%	0	0%	1	1%	2	1%
Police Vehicles/ Emergency Use of Police Vehicles/ Pursuit Policy	0	0%	0	0%	0	0%	0	0%	0	0%
Secondary Employment/ Attendance & Leave/ Workplace Environment/ Alcohol & Drugfree Workplace	0	0%	0	0%	0	0%	8	10%	8	5%
Internet & Network Computer Use/ Radio & Telecommunications/ Mobile Video Recorder Operation/ Telephone & Mail Protocol	0	0%	0	0%	0	0%	1	1%	1	1%
Public Recording of Official Acts	1	2%	0	0%	1	4%	2	3%	4	3%
Other	10	24%	0	0%	5	20%	6	8%	21	14%
Total by Years of Service	42	100%	9	100%	25	100%	78	100%	154	100%
Percent of Total for All Years of Service	27%		6%		16%		51%		100%	

Missing Frequency = 3

*May not total to 100% due to rounding.

In Supervisor Referrals, the distribution of allegations is somewhat different than for External Formal complaints. While we still see officers with the least amount of experience and those with the greatest amount of experience have the most allegations levied against them, it is the younger officers that have the highest number. The OPM believes this is due to the lack of experience for the one group and burnout for the other. The OPM has limited access to officer shift information thus, the OPM does not know if any of this could be attributed to where an officer is assigned, or for how long the officer was assigned to an area (both duration and number of hours in a day). Nationally, research has shown that placing less experienced officers into areas where more police intervention is required is not the best course. Research has also shown that over the longer haul, burnout occurs more frequently with officers who have been assigned to the same area for extended periods of time.

Table 44: Supervisor Referral Allegation Categories by Subject Officer Years of Service - 2015

SUPERVISOR REFERRAL Allegation Categories	Years of Service									
	0-3		4-6		7-9		10+		Total	
	#	%	#	%	#	%	#	%	#	%
Code of Conduct	61	50%	23	58%	39	67%	76	69%	199	60%
Use of Force/ Duty Weapons/ Firearm Discharges	5	4%	0	0%	1	2%	2	2%	8	2%
Interviews, Stops, Arrests/ Arrests & Bookings/ Fugitive Warrants/ Care & Transport of Prisoners	21	17%	5	13%	8	14%	5	5%	39	12%
Bias-Based Profiling/ Incident Reporting & Documentation	3	2%	3	8%	1	2%	4	4%	11	3%
Traffic Enforcement	4	3%	4	10%	1	2%	2	2%	11	3%
Preliminary, Follow-Up & Collision Investigations	18	15%	4	10%	4	7%	13	12%	39	12%
Police Vehicles/ Emergency Use of Police Vehicles/ Pursuit Policy	1	1%	0	0%	1	2%	5	5%	7	2%
Secondary Employment/ Attendance & Leave/ Workplace Environment/ Alcohol & Drugfree Workplace	0	0%	0	0%	0	0%	0	0%	0	0%
Internet & Network Computer Use/ Radio & Telecommunications/ Mobile Video Recorder Operation/ Telephone & Mail Protocol	0	0%	0	0%	0	0%	0	0%	0	0%
Other	10	8%	1	3%	3	5%	3	3%	17	5%
Total by Years of Service	123	100%	40	100%	58	100%	110	100%	331	100%
Percent of Total for All Years of Service	37%		12%		18%		33%		100%	

Missing Frequency = 40

*May not total to 100% due to rounding.

The 17 allegations classified as “Other” include one allegation each related to Disabled Vehicles and Stranded Motorists, Vehicle Towing and Impound, Animal Incidents, Mental Health Response, and Smoking/Tobacco Use. There were also four allegations each related to Criminal Trespass and Property and Evidence Collection Procedures.

Gender of Officers

The vast majority of officers in the APD are men.

Table 45: Gender – All APD – 2015

Gender	All APD Sworn Personnel	
	#	%
Female	177	10%
Male	1,575	90%
Total	1,752	100%

As has been the case in years past, the public bring complaints against male officers at a higher rate than their representation on the police force and, of course, this is reflected in the number of allegations lodged against the officer.

Table 46: Gender of Subject Officers by Number of Allegations – 2015

Gender of Officer	Supervisor Referral Allegations		External Formal Allegations		Total		Percent of All APD Sworn Personnel	
	#	%	#	%	#	%	#	%
Female	18	5%	8	5%	26	5%	177	10%
Male	324	95%	159	95%	483	95%	1,575	90%
Total	342	100%	167	100%	509	100%	1,752	100%

*Caution should be used when reading this table. This table is a report by gender only. It should NOT be used as a count of unique officers as an officer may be involved in more than one complaint. Also, it is possible that a Supervisor Referral may have no named officer.

*May not total to 100% due to rounding.

The majority of allegations filed in both External Formal and Supervisor Referral complaints against both female and male officers involve Code of Conduct issues. In 2015, the second highest number of allegations levied against both male and female officers in External Formal complaints involved Interviews, Stops and Arrests. For men, this was followed by Use of Force/Response to Resistance.

Table 47: External Formal Allegations by Subject Officer Gender - 2015

EXTERNAL FORMAL Allegation Categories	Female Officers		Male Officers	
	#	%	#	%
Code of Conduct	3	38%	75	51%
Use of Force/ Duty Weapons/ Firearm Discharges	0	0%	15	10%
Interviews, Stops, Arrests/ Arrests & Bookings/ Fugitive Warrants/ Care & Transport of Prisoners	2	25%	17	12%
Bias-Based Profiling/ Incident Reporting & Documentation	0	0%	6	4%
Preliminary, Follow-Up & Collision Investigations	0	0%	2	1%
Secondary Employment/ Attendance & Leave/ Workplace Environment/ Alcohol & Drugfree Workplace	0	0%	8	5%
Police Vehicles/ Emergency Use of Police Vehicles/ Pursuit Policy	0	0%	0	0%
Internet & Network Computer Use/ Radio & Telecommunications/ Mobile Video Recorder Operation/ Telephone & Mail Protocol	0	0%	1	1%
Other	3	38%	22	15%
Total	8	100%	146	100%

Missing Frequency = 3

*May not total to 100% due to rounding.

In Supervisor Referral complaints after Code of Conduct issues, the second highest number of allegations levied against male officers involved Interviews, Stops and Arrests (38). This was followed by Preliminary, Follow-Up and Collision Investigations (36).

Table 48: Supervisor Referral Allegation Categories by Subject Officer Gender - 2015

Supervisor Referrals Allegation Categories	Female Officers		Male Officers	
	#	%	#	%
Code of Conduct	10	67%	189	60%
Use of Force/ Duty Weapons/ Firearm Discharges	0	0%	8	3%
Interviews, Stops, Arrests/ Arrests & Bookings/ Fugitive Warrants/ Care & Transport of Prisoners	1	7%	38	12%
Bias-Based Profiling/ Incident Reporting & Documentation	1	7%	10	3%
Preliminary, Follow-Up & Collision Investigations	3	20%	36	11%
Secondary Employment/ Attendance & Leave/ Workplace Environment/ Alcohol & Drugfree Workplace	0	0%	0	0%
Police Vehicles/ Emergency Use of Police Vehicles/ Pursuit Policy	0	0%	7	2%
Internet & Network Computer Use/ Radio & Telecommunications/ Mobile Video Recorder Operation/ Telephone & Mail Protocol	0	0%	0	0%
Other	0	0%	28	9%
Total	15	100%	316	100%

Missing Frequency = 40

*May not total to 100% due to rounding.

As a percentage of all complaints, more complaints are lodged against male officers compared to their representation within the APD. Men were slightly overrepresented while women were underrepresented.

Table 49: Repeat versus Single Case Subject Officer Gender - 2015

Gender of Officer	Repeat Subject Officers		Single Case Subject Officers		Total		All APD Sworn Personnel	
	#	%	#	%	#	%	#	%
Male	66	93%	445	92%	511	92%	1,575	90%
Female	5	7%	38	8%	43	8%	177	10%
Total	71		483		554		1,752	100%

Missing Frequency = 1

*May not total to 100% due to rounding.

Race/Ethnicity of Officers

Most officers are Caucasian, 69%, with another 21% being Hispanic/Latino, and 9% being Black/African American.

Table 50: Race/Ethnicity - All APD - 2015

Officer Race/Ethnicity	All APD Sworn Personnel	
	#	%
Caucasian	1,201	69%
Black/African American	152	9%
Hispanic/Latino	361	21%
Asian/Pacific Islander	36	2%
American Indian/Alaska Native	2	0%
Total	1,752	100%

*May not total to 100% due to rounding.

Caucasian officers were slightly overrepresented in total allegations compared to their population within the APD while Hispanic/Latino officers were slightly underrepresented.

Table 51: Number of Allegations by Subject Officer Race/Ethnicity and Complaint Type - 2015

Race/Ethnicity of Officer	Supervisor Referral Allegations		External Formal Allegations		Total		All APD Sworn Personnel	
	#	%	#	%	#	%	#	%
Caucasian	236	70%	125	75%	361	71%	1,201	69%
Black/African American	34	10%	13	8%	47	9%	152	9%
Hispanic/Latino	62	18%	28	17%	90	18%	361	21%
Asian/Pacific Islander	6	2%	1	1%	7	1%	36	2%
American Indian/Alaska Native	1	0%	0	0%	1	0%	2	0%
Total	339	100%	167	100%	506	100%	1,752	100%

Missing Frequency = 42

*May not total to 100% due to rounding.

Table 52: External Formal Allegations by Subject Officer Race/Ethnicity - 2015

EXTERNAL FORMAL Allegation Categories	Race/Ethnicity of Officers									
	Caucasian		Black/African American		Hispanic/Latino		Asian/Pacific Islander		American Indian/Alaska Native	
	#	%	#	%	#	%	#	%	#	%
Code of Conduct	60	53%	5	42%	13	48%	0	0%	0	0%
Use of Force/ Duty Weapons/ Firearm Discharges	7	6%	3	25%	5	19%	0	0%	0	0%
Interviews, Stops, Arrests/ Arrests & Bookings/ Fugitive Warrants/ Care & Transport of Prisoners	14	12%	3	25%	2	7%	0	0%	0	0%
Bias-Based Profiling/ Incident Reporting & Documentation	5	4%	0	0%	1	4%	0	0%	0	0%
Preliminary, Follow-Up & Collision Investigations	2	2%	0	0%	0	0%	0	0%	0	0%
Secondary Employment/ Attendance & Leave/ Workplace Environment/ Alcohol & Drugfree Workplace	8	7%	0	0%	0	0%	0	0%	0	0%
Police Vehicles/ Emergency Use of Police Vehicles/ Pursuit Policy	0	0%	0	0%	0	0%	0	0%	0	0%
Internet & Network Computer Use/ Radio & Telecommunications/ Mobile Video Recorder Operation/ Telephone & Mail Protocol	1	1%	0	0%	0	0%	0	0%	0	0%
Other	17	15%	1	8%	6	22%	1	100%	0	0%
Total	114	100%	12	100%	27	100%	1	100%	0	0%

Missing Frequency = 3

*May not total to 100% due to rounding.

Table 53: Supervisor Referral Allegation Categories by Subject Officer Race/Ethnicity - 2015

SUPERVISOR REFERRAL Allegation Categories	Race/Ethnicity of Officers									
	Caucasian		Black/African American		Hispanic/Latino		Asian/Pacific Islander		American Indian/Alaska Native	
	#	%	#	%	#	%	#	%	#	%
Code of Conduct	131	57%	20	61%	42	69%	5	83%	1	100%
Use of Force/ Duty Weapons/ Firearm Discharges	8	3%	0	0%	0	0%	0	0%	0	0%
Interviews, Stops, Arrests/ Arrests & Bookings/ Fugitive Warrants/ Care & Transport of Prisoners	28	12%	3	9%	8	13%	0	0%	0	0%
Bias-Based Profiling/ Incident Reporting & Documentation	7	3%	2	6%	2	3%	0	0%	0	0%
Preliminary, Follow-Up & Collision Investigations	31	13%	6	18%	2	3%	0	0%	0	0%
Secondary Employment/ Attendance & Leave/ Workplace Environment/ Alcohol & Drugfree Workplace	0	0%	0	0%	0	0%	0	0%	0	0%
Police Vehicles/ Emergency Use of Police Vehicles/ Pursuit Policy	6	3%	0	0%	1	2%	0	0%	0	0%
Internet & Network Computer Use/ Radio & Telecommunications/ Mobile Video Recorder Operation/ Telephone & Mail Protocol	0	0%	0	0%	0	0%	0	0%	0	0%
Other	19	8%	2	6%	6	10%	1	17%	0	0%
Total	230	100%	33	100%	61	100%	6	100%	1	100%

Missing Frequency = 40

*May not total to 100% due to rounding.

Repeat subject Caucasian officers were underrepresented compared to their presence on the APD. Black/African American and Hispanic/Latino repeat subject officers were a bit overrepresented.

Table 54: Repeat versus Single Case Subject Officer Race/Ethnicity - 2015

Race/Ethnicity of Officer	Repeat Subject Officers		Single Case Subject Officers		Total		All APD Sworn Personnel	
	#	%	#	%	#	%	#	%
Caucasian	40	56%	329	68%	369	67%	1,201	69%
Black/African American	10	14%	38	8%	48	9%	152	9%
Hispanic/Latino	21	30%	105	22%	126	23%	361	21%
Asian/Pacific Islander	0	0%	10	2%	10	2%	36	2%
American Indian/Alaska Native	0	0%	1	0%	1	0%	2	0%
Total	71	100%	483	100%	554	100%	1,752	100%

Missing Frequency = 1

*May not total to 100% due to rounding.

Age of Officers

The vast majority of the APD is between 30 and 49 years old.

Table 55: Age of Officers - All APD - 2015

Age of Officer	All APD Sworn Personnel	
	#	%
21-29	129	7%
30-39	651	37%
40-49	722	41%
50+	250	14%
Unknown	0	0%
Total	1,752	100%

*May not total to 100% due to rounding.

The average age of both single and repeat subject officers was 39 years old. The lowest age for a repeat subject officer was 23. The highest age for a repeat subject officer was 57 and 60 for a single subject officer.

Table 56: Age of Repeat versus Single Case Subject Officers - 2015

Age of Officers	Repeat Subject Officers	Single Case Subject Officers
Average age	39	39
Greatest age	57	60
Lowest age	23	22
Age midpoint	40	39
Most common age	**	32

In 2015, the most common age of single case officers was 32 years old. There was no common age among the repeat subject officers, although they ranged in age from 22-60 with the average and the midpoint, being 39 and 40, respectively.

Table 57: Subject Officer Age by Number of Allegations and Complaint Type - 2015

Age of Officer	Supervisor Referral Allegations		External Formal Allegations		Total		All APD Sworn Personnel	
	#	%	#	%	#	%	#	%
21-29	50	14%	19	11%	69	13%	129	7%
30-39	151	43%	56	33%	207	39%	651	37%
40-49	108	30%	73	43%	181	34%	722	41%
50+	33	9%	19	11%	52	10%	250	14%
Unknown	13	4%	3	2%	16	3%	0	0%
Total	355	100%	170	100%	525	100%	1,752	100%

Missing Frequency = 1

*May not total to 100% due to rounding.

As a group, the 40-49 year old officers have the most allegations lodged against them. Last year, it was the 30-39 group, who have the second highest this year.

Table 58: External Formal Allegations by Subject Officer Age - 2015

EXTERNAL FORMAL Allegation Categories	Age of Officer							
	21-29		30-39		40-49		50+	
	#	%	#	%	#	%	#	%
Code of Conduct	7	41%	24	47%	35	52%	12	63%
Use of Force/ Duty Weapons/ Firearm Discharges	2	12%	7	14%	5	7%	1	5%
Interviews, Stops, Arrests/ Arrests & Bookings/ Fugitive Warrants/ Care & Transport of Prisoners	3	18%	7	14%	9	13%	0	0%
Bias-Based Profiling/ Incident Reporting & Documentation	0	0%	2	4%	3	4%	1	5%
Preliminary, Follow-Up & Collision Investigations	1	6%	0	0%	1	1%	0	0%
Secondary Employment/ Attendance & Leave/ Workplace Environment/ Alcohol & Drugfree Workplace	0	0%	0	0%	6	9%	2	11%
Police Vehicles/ Emergency Use of Police Vehicles/ Pursuit Policy	0	0%	0	0%	0	0%	0	0%
Internet & Network Computer Use/ Radio & Telecommunications/ Mobile Video Recorder Operation/ Telephone & Mail Protocol	0	0%	0	0%	1	1%	0	0%
Other	4	24%	11	22%	7	10%	3	16%
Total	17	100%	51	100%	67	100%	19	100%

Missing Frequency = 0

*May not total to 100% due to rounding.

Within Supervisor Referrals, all age groups had Code of Conduct allegations cited most often. The 30-39 had the most allegations levied against them with Interviews, Stops and Arrests being second to Code of Conduct.

Table 59: Supervisor Referral Allegation Categories by Subject Officer Age - 2015

SUPERVISOR REFERRAL Allegation Categories	Age of Officer							
	21-29		30-39		40-49		50+	
	#	%	#	%	#	%	#	%
Code of Conduct	26	53%	87	59%	63	61%	23	77%
Use of Force/ Duty Weapons/ Firearm Discharges	2	4%	5	3%	1	1%	0	0%
Interviews, Stops, Arrests/ Arrests & Bookings/ Fugitive Warrants/ Care & Transport of Prisoners	6	12%	21	14%	11	11%	1	3%
Bias-Based Profiling/ Incident Reporting & Documentation	3	6%	2	1%	6	6%	0	0%
Preliminary, Follow-Up & Collision Investigations	8	16%	15	10%	14	13%	2	7%
Secondary Employment/ Attendance & Leave/ Workplace Environment/ Alcohol & Drugfree Workplace	0	0%	0	0%	0	0%	0	0%
Police Vehicles/ Emergency Use of Police Vehicles/ Pursuit Policy	1	2%	1	1%	4	4%	1	3%
Internet & Network Computer Use/ Radio & Telecommunications/ Mobile Video Recorder Operation/ Telephone & Mail Protocol	0	0%	0	0%	0	0%	0	0%
Other	3	6%	17	11%	5	5%	3	10%
Total	49	100%	148	100%	104	100%	30	100%

Missing Frequency = 27

*May not total to 100% due to rounding.

Track Records

For this section, the OPM looked at “officer complaints,” i.e., we counted the number of complaints attributable to any one officer. Given that more than one officer can be named in a complaint, the number of “officer complaints” will always exceed the total number of complaints for a given year.

For those officers with a complaint in 2015, meaning External Formal complaints, Supervisor Referrals and/or Internal Formal complaints, the OPM counted 597 “officer complaints” between them. Again, more than one officer can be involved in the same complaint so the number of “officer complaints” will always exceed the number of complaints as counted by case number for the year. Sixty-three percent of these officers also had at least one previous complaint sometime between 2011 and 2014.

When aggregating the complaints against officers within the 2011-2015 timeframe, the OPM found that 69% of officers in this pool have had two or more complaints in the past five years. There were 12 officers who had ten or more complaints (i.e., External Formal complaints, Supervisor Referral complaints and/or Internal Formal complaints).

Each year for the past five years, the percentage of unique officers with a complaint lodged against them has ranged from 26% to 32%. This means that each year for the past five years, the majority of the force, 68% to 74% of all officers, have not had a complaint lodged against them.

Section 5: Citizen Review Panel & OPM Recommendation Memos

In 2015, nineteen cases went before the Citizen Review Panel. Six of these 19 cases were Internal Complaints involving Critical Incidents that included five firearm discharge cases and one less-than-lethal weapon discharge. Twelve of the remaining 13 cases were complaints brought by members of the public and one was an APD internal case that was not a Critical Incident. Of the 12 External complaints that went to the CRP, seven of these first had a meeting with the Police Monitor, called a Police Monitor's Conference (PMC).

Type of Case	Recommending Party	Recommendation	APD Response
Officer-Involved Shooting	CRP	The CRP had no recommendations regarding policy or discipline because it did not feel an adequate investigation had been done. Therefore, it did recommend a more thorough investigation into this shooting by conducted by the APD. It also requested that cases get sent to the CRP in a timelier manner.	None.
Officer-Involved Shooting	CRP	The CRP requested a meeting with the APD to discuss policy recommendations made previously that are also relevant to this case. Specifically, these include addressing delays in communication and access to additional protective equipment.	None.
Less-than-Lethal Weapon Discharge	CRP	The CRP lauded the performance of the officers who responded to this situation. It raised the question, however, as to whether the APD was doing enough to ensure that the City continues to benefit from their knowledge, experience and skill. It also expressed concern that older equipment may be left in rotation longer than it should.	None.

Citizen Complaint	CRP	The CRP recommended that the APD more thoroughly investigate this case and urged the APD to do so.	None.
Officer-Involved Shooting	CRP	<p>Recommended corrective counseling for five officers who continued to exceed speed limits after the pursuit was terminated and/or the subject was announced as "down."</p> <p>Recommended the supervising officer be reprimanded for lacking in communication and supervision.</p> <p>Recommended that a Mental Health Officer be dispatched for every suicidal subject call.</p> <p>Recommended reviewing APD policies to ensure there is equality regarding administering first aid to injured persons who request help as well as administering first aid to those who have been harmed by APD.</p>	None.
Citizen Complaint	CRP	The CRP recommended that policies with regard to Field Training Officers (FTOs), that FTOs have more than two years of experience, and the complaints against FTOs be more highly scrutinized to ensure trainees are receiving proper instruction so that unprofessional behavior be corrected and not duplicated by trainees.	None.

Appendix A: Austin Police Department's Discipline Matrix

Below find the discipline matrix currently employed by the APD.

903.1 PURPOSE AND SCOPE

The Discipline Matrix is designed as a guide to be used in conjunction with Policy 902 (Administrative Investigations). This matrix is not an all-encompassing document but should provide some guidance for the vast majority of investigations involving discipline. As a general rule, those violations below that are listed as IS (Indefinite Suspension), Fact Specific, or those that may include discipline greater than a 15-day suspension will be investigated by Internal Affairs.

Violation General Category/Sub Category (APD POLICY MANUAL)	1st Occurrence	2nd Occurrence	3rd Occurrence
900 – GENERAL CONDUCT AND RESPONSIBILITIES			
❖ Required reporting of violations ❖ Requirements of duty ❖ Time and attention to duty ❖ Unprofessional or abusive behavior to co-workers ❖ Duty to identify	Oral Reprimand to 1-3 days	Increased one level	Increased one level
❖ Improper use of City resources <u>not</u> involving personal gain	Written Reprimand to 1-3 days	Increased one level	Increased one level
❖ Improper use of City resources involving personal gain.	4-15 days	IS	
❖ Confidentiality	4-15 days	IS	
❖ Criminal violation while on duty or related to job duties	IS		
❖ Other criminal violations	Fact Specific		
❖ Dishonesty – False official statements	IS		
❖ Neglect of duty – Misleading Statements	Fact Specific		
❖ Duty to take action	Fact Specific		
❖ Dereliction of duty	4-15 days to Demotion	Demotion to IS	
❖ Neglect of duty	Fact Specific		
❖ Associating with those of ill repute	Fact Specific		
301 – RESPONSIBILITY TO COMMUNITY			
❖ Courtesy (Rudeness Complaints)	Oral Reprimand to 1-3 days	Increased one level	Increased one level
❖ Impartial Attitude	Fact Specific		
110 – ORGANIZATIONAL STRUCTURE AND RESPONSIBILITY			
❖ Insubordination	4-15 days	IS	
902 - ADMINISTRATIVE INVESTIGATIONS			
❖ Refusing to cooperate with Internal Affairs	IS		

Violation General Category/Sub Category (APD POLICY MANUAL)	1st Occurrence	2nd Occurrence	3rd Occurrence
914 – DISCRIMINATION AND HARASSMENT			
❖ Quid pro quo sexual harassment	IS		
916 – DRUG AND ALCOHOL FREE WORKPLACE			
❖ Failure of random drug test or test resulting from reasonable suspicion	IS		
934 – COURT APPEARANCES			
❖ Missed court appearance	Oral Reprimand to 1-3 days	Increased one level	Increased one level
949 – SECONDARY EMPLOYMENT			
❖ Secondary employment violations	Written Reprimand to 1-3 days	Increased one level	Increased one level
955 – ATTENDANCE AND LEAVE POLICY			
❖ Abuse of sick leave	Oral Reprimand to 1-3 days	Increased one level	Increased one level

Violation General Category/Sub Category (APD POLICY MANUAL)	1st Occurrence	2nd Occurrence	3rd Occurrence
401 – PRELIMINARY FIELD INVESTIGATIONS			
403 – FOLLOW-UP INVESTIGATIONS			
❖ Failure to properly investigate	Oral Reprimand to 1-3 days	Increased one level	Increased one level
701 – PROPERTY AND EVIDENCE			
❖ Improper handling of evidence (not related to criminal conduct)	Oral Reprimand to 1-3 days	Increased one level	Increased one level
❖ Improper destruction of evidence	Written Reprimand to 4-15 days	Increased one level	Increased one level
328 – BIASED BASED PROFILING			
❖ Biased based profiling	Fact Specific		

Violation General Category/Sub Category (APD POLICY MANUAL)	1st Occurrence	2nd Occurrence	3rd Occurrence
303 & 304 – MOBILE AUDIO VIDEO RECORDING OPERATION			
❖ Mobile Audio Video recording violations	Written Reprimand to 1-3 days	Increased one level	Increased one level
❖ Intentional Mobile Audio Video recording violations	4-15 days	IS	
❖ Intentional Mobile Audio Video recording violation in a critical incident	IS		
305 – RADIO AND MOBILE DATA COMPUTER USE			
❖ Inappropriate Electronic Messages *1	Written Reprimand	1-3 days	4-15 days
1000 & 1002 – DEPARTMENT TECHNOLOGY USE			
❖ Internet/Computer Violations	Written Reprimand to 1-3 days	Increased one level	Increased one level

Violation General Category/Sub Category (APD POLICY MANUAL)	1st Occurrence	2nd Occurrence	3rd Occurrence
CHAPTER 2 – RESPONSE TO RESISTANCE			
❖ Objectively unreasonable use of deadly force	IS		
❖ Objectively unreasonable use of force	Fact Specific		
❖ Negligent discharge involving serious bodily injury or death	Fact Specific		
❖ Accidental discharge not involving serious bodily injury or death	1-3 days	4-15 days	4-15 days up to IS
803 – DUTY WEAPONS			
❖ Violations of duty weapons policy	Written Reprimand to 1-3 days	Increased one level	Increased one level
214 – VEHICLE PURSUIT POLICY			
400 – OFFICER RESPONSE TO CALLS			
804 – DEPARTMENT VEHICLES			
❖ Violations of pursuit policy	Written Reprimand to 1-3 days	Increased one level	Increased one level
❖ Pursuit policy, Aggravated	1-15 days	4-15 days	4-15 days to IS
❖ Operation of Police Vehicles (non-collision)	Oral Reprimand to 1-3 days	Increased one level	Increased one level
❖ At-Fault collision (Not involving serious bodily injury or death) *2	Oral Reprimand to 1-3 days	Increased one level	Increased one level
OTHER			
❖ Negligent/Reckless conduct resulting in SBI or death	IS		
❖ Violation of tactics, other than above "A".	Fact Specific		

Notes:

*1 If inappropriate Electronic Messages bring discredit to the Department, increase one level.

*2 A written reprimand will normally be administered for violations under this heading as a first occurrence. Supervisors will take into account the employees previous driving history, the severity of the collision and other contributing factors involve in the negligent collision.

Appendix B: Community Outreach Conducted in 2015



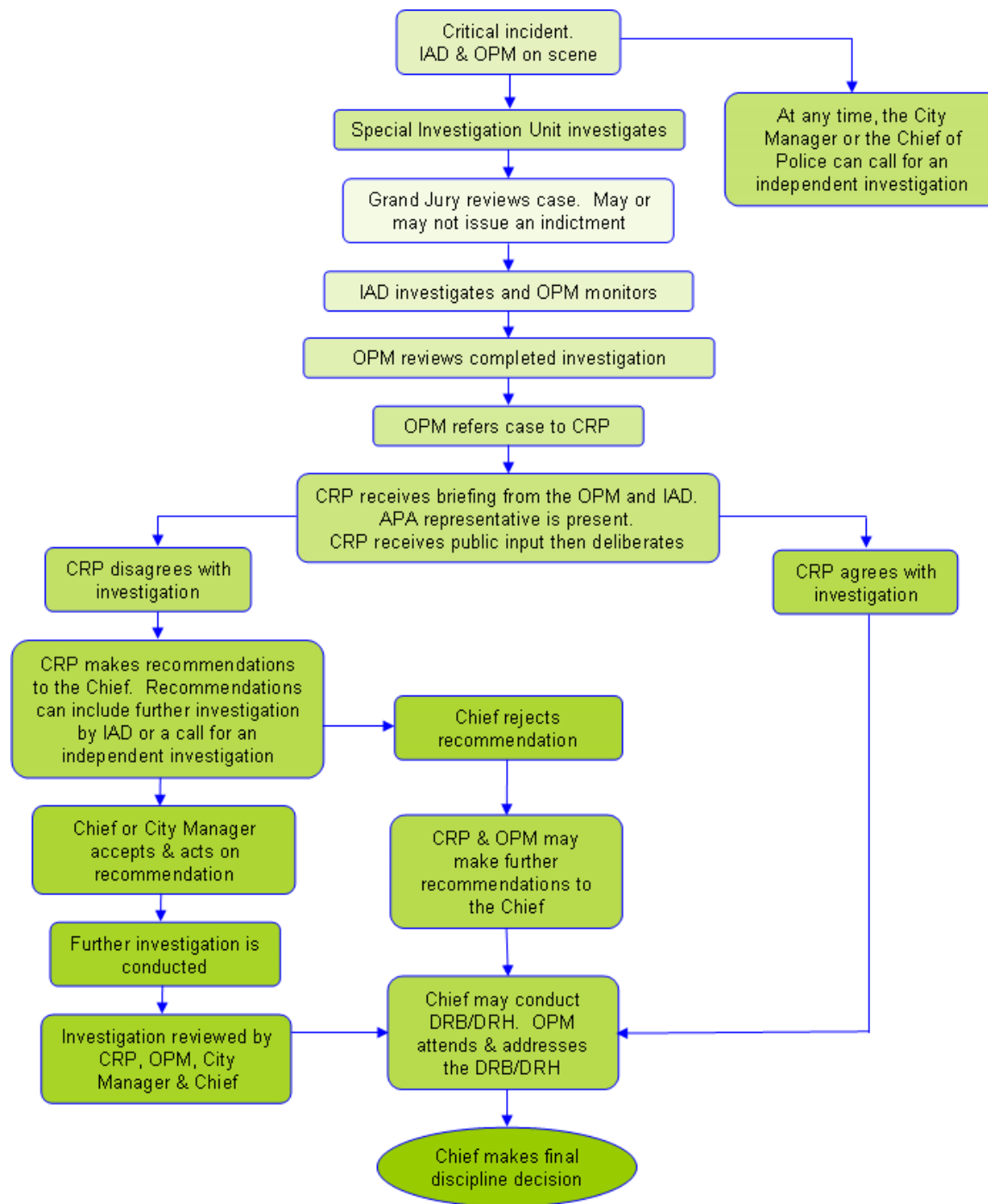
Office of the Police Monitor

OUTREACH EFFORTS
January – December 2015

Martin Luther King Celebration	January 19
Gilbert Elementary School Career Fair	January 30
Dove Springs Proud Annual Recognition Ceremony	February 10
Feria Para Aprender	February 21
ACC Lunar New Year	February 21
ACC South Campus Spring Break Survivor	March 3
ACC Eastview Campus Spring Break Survivor	March 4
ACC Northridge Lunar New Year	March 25
Women's Resource Fair	March 28
University of Texas Center for Mexican American Studies Latino Leadership Award Ceremony	March 30
Spanish translation at Effective Parenting and Child Engagement through Travis County Judge Pct. 1	April 1
Huston Tillotson Health and Wellness Fair	April 2
STEM Festival	April 11
Hispanic Chamber of Commerce Annual Scholarship Banquet	April 11
Housing Authority Community Fair	April 14
Travis County Palm Square Resources Fair	April 25
ACC Riverside Cinco de Mayo Festival	May 2
Bullying and Asian American Youth	May 15
Bertha Sadler Means Young Women's Leadership Academy Appreciation luncheon	May 22
Webb Middle School Career Fair	May 22

Webb Middle School Community Partner Recognition Ceremony	June 1
Martin Middle School graduation and PTA ceremony	June 4
Welcoming reception for new Mexican Consulate	June 16
Juneteenth Parade	June 20
AISD Back-to-School Bash	August 15
National Night Out annual coordinators luncheon	August 19
Travis County Democratic Party Conversation on Race and Policing	August 24
Pride Festival	August 29
Burnet Middle School Back-to-School community fair	Sept. 8
Asian Community & Education Foundation outreach	Sept. 12
ACC Diez y Seis Celebration	Sept. 16
Diez y Seis Annual Gala	Sept. 16
Austin Energy Community Connections	Sept. 19
Mexican Consulate Otili Awards Ceremony	Sept. 25
National Night Out	Oct. 3
AVANCE annual luncheon	Oct. 22
Travis County Democratic Party Community Conversation on Immigration	Nov. 16
Gilbert Elementary School Career Fair	Dec. 11

Appendix C: Critical Incident Monitoring Process



OPM: Office of the Police Monitor **APD:** Austin Police Department **IAD:** Internal Affairs Division
APA: Austin Police Association **CRP:** Citizen Review Panel
DRB: Disciplinary Review Board **DRH:** Disciplinary Review Hearing

Appendix D: Meet and Confer Contract, Article 16

(Term of Contract begins October 1, 2014 and ends September 30, 2017)

ARTICLE 16 CITIZEN OVERSIGHT OF THE AUSTIN POLICE DEPARTMENT

Section 1. Citizen Oversight

a) Citizen Oversight means the process which incorporates citizen input into the administrative review of conduct of APD Officers and the review of the Austin Police Department's policies and procedures. The City of Austin may provide for Citizen Oversight of the Austin Police Department. Citizen Oversight may include an Office of the Police Monitor and a Citizen Review Panel. The CITY agrees that there will be no parallel process created in addition to the one contemplated by these provisions.

b) The purpose of Citizen Oversight is:

(1) To assure timely, fair, impartial, and objective administrative review of complaints against police officers, while protecting the individual rights of officers and citizens;

(2) To provide an independent and objective review of the policies and procedures of the Austin Police Department; and

(3) To provide a primary, but not exclusive, location for accepting administrative complaints of officer misconduct.

c) Except as otherwise provided by this AGREEMENT, the Chief of Police retains all management rights and authority over the process of administrative investigation of alleged misconduct by APD Officers that could result in disciplinary action.

d) Except as specifically permitted in this Article, the Citizen Oversight process, regardless of its name or structure, shall not be used or permitted to gather evidence, contact or interview witnesses, or otherwise independently investigate a complaint of misconduct by an Officer. There shall be no legal or administrative requirement, including but not limited to subpoena power or an order from the City Manager or the Department, that an Officer appear before or present evidence to any individual, panel, committee, group, or forum of any type involved in Citizen Oversight. This provision has no application to any Independent Investigation

authorized by the Chief of Police or the City Manager, regardless of whether the Independent Investigation was recommended by a Panel or Police Monitor, or to any hearing of an appeal of disciplinary action pursuant to this AGREEMENT and/or Chapter 143 of the Texas Local Government Code. Police Officers remain subject to orders or subpoenas to appear and provide testimony or evidence in such investigations or hearings.

Section 2. Definitions

In this Article:

a) “Critical Incident” means:

(1) An alleged use of force or other action by an Austin Police Officer that directly results in serious bodily injury or death (The definition of “serious bodily injury” found in the Texas Penal Code, Section 1.07(a)(46) will apply.);

(2) A death in custody; or

(3) An officer involved shooting.

b) “Independent Investigation” means an administrative investigation or inquiry of alleged or potential misconduct by an Officer, authorized by the Chief of Police or City Manager and conducted by a person(s) who is not:

(1) An employee of the City of Austin;

(2) An employee of the Office of the Police Monitor; or

(3) A volunteer member of the Panel.

An “Independent Investigation” does not include attorney-client work product or privileged material related to the defense of claims or suits against the City of Austin.

c) “Complaint” means an affidavit setting forth allegations or facts that may form the basis of future allegations of misconduct against an officer and which serves as the basis for initiating an investigation.

d) “Complainant” means a person, including an Officer, claiming to be a witness to or the victim of misconduct by an Officer. “Complainant” does not include the Department designee in the case of an administrative referral.

Section 3. The Office of the Police Monitor (“OPM”)

a) Access to Confidential Information

The Police Monitor will have unfettered access to the Internal Affairs investigation process, except as provided herein. The Police Monitor may inquire of the Commander of the Internal

Affairs Division or the Chief of Police, or the Chief's designee, as to the status of any pending IAD investigation.

b) Complaint Intake

(1) The OPM shall not gather evidence, contact or interview witnesses (except the complainant as provided herein), or otherwise independently investigate a complaint or other information of police misconduct. The OPM shall not have the authority to subpoena witnesses. There shall be no administrative requirement, including but not limited to an order from the City Manager or the Department, that an Officer appear or present evidence to the Police Monitor. The OPM is authorized to accept complaints of Officer misconduct as provided in this Section.

(2) The OPM may obtain the following information in connection with the filing of a complaint of officer misconduct:

- (a) The complainant's personal information;
- (b) The nature of the complaint;
- (c) Witness information;
- (d) The incident location, date, and time; and
- (e) The APD officer(s) involved.

(3) The OPM shall digitally audio record the taking of the information provided in subsection (b)(2). The OPM will promptly forward the completed complaint and audio recording to IAD. A complaint by a complainant who is not a Police Officer shall not be accepted unless the complainant verifies the complaint in writing before a public officer who is authorized by law to take statements under oath. A complainant may be subsequently interviewed by the IAD investigator for purposes of clarification or to obtain additional information relevant to the investigation.

(4) Personnel from the OPM shall assist an individual in understanding the complaint process and the requirements for filing a complaint but shall not solicit or insist upon the filing of a complaint by any individual.

c) Access to Investigation Interviews

A representative from the OPM may attend an interview of the Officer who is the subject of the investigation or administrative inquiry, as well as all witness interviews. The OPM representative may directly question the Officer who is the subject of the investigation only if agreed to by the subject Officer or his/her representative and the IAD investigator. At the conclusion of or during a break in any interview, the OPM representative may take the IAD investigator aside and request that the investigator ask additional questions. Whether such information is sought in any witness interview is within the discretion of the IAD investigator.

d) Access to Dismissal Review Hearings

The Police Monitor may attend any Dismissal Review Hearing (or other administrative hearing conducted for the purpose of determining whether the Department shall take disciplinary action against an Officer for alleged misconduct). Neither the Police Monitor nor the Internal Affairs Representative(s) may remain in the Hearing while the chain of command and the Chief of Police or his/her designee discusses the final classification and/or appropriate discipline, if any, to be imposed. The final classification of an allegation of misconduct is within the sole discretion of the Chief of Police, subject to the Officer's right of appeal of any discipline imposed as provided by Chapter 143 of the Texas Local Government Code and this AGREEMENT.

e) Quarterly Meetings

On a quarterly basis, the Police Monitor, the Chief of Police, the Commander of the Internal Affairs Division, and the ASSOCIATION President shall meet to discuss any issues related to the citizen oversight process.

Section 4. Citizen Review Panel ("Panel")

a) Function

The Panel shall serve to make recommendations to the Chief of Police as provided in this Article, and in addition to review individual cases of Officer conduct as authorized in this Article. Panel members shall perform their duties in a fair and objective manner.

b) Qualifications

To be eligible for appointment to the Panel, applicants must not have a felony criminal conviction, received deferred adjudication for a felony, or be under felony indictment. Prior to appointment, Panel members must submit to a criminal background investigation to determine their eligibility to serve on the Panel. A felony conviction, felony indictment, or felony deferred adjudication, after appointment, shall result in the immediate removal of the member from the Panel by the City Manager.

b) Training

Each member must complete the training prescribed herein prior to commencing their service on the Panel, except as specified herein. The required training shall include:

(1) Attending a three to four (3-4) day training by APD tailored specifically for Panel members including, at a minimum, the following:

- a. Special Investigations Unit
- b. Officer Involved Shootings;
- c. Response to resistance;
- d. The Police Training Academy;
- e. Crisis Intervention Team;
- f. Firearms, including FATS training;
- g. Bomb and SWAT;
- h. Ride-outs on at least two shifts (14 hours) in different parts of the City, one of which must include a Friday or Saturday night in Downtown Command from 11 pm to 3 am. The Downtown Command ride-out must be completed within six months of selection as a Panelist, and
- i. A presentation by the Association.

(2) Attending six (6) hours of training provided by the Internal Affairs Division.

These training requirements are subject to change by unanimous agreement of the Chief of Police, the ASSOCIATION President, and the Police Monitor.

d) Resign to Run

Any person involved in the citizen oversight process as a Panel member, who files for public elective office shall immediately resign from their position in the citizen oversight process, and failing such resignation shall be immediately removed by the City Manager.

e) Cases Subject to Review by Panel

The Panel may review the following two categories of cases regarding officer conduct:

(1) Review Requested by Complainant: Not later than thirty (30) calendar days after the Police Monitor forwards notice of the outcome of the investigation to the complainant, the complainant may request that the Police Monitor refer the complaint to the Panel. There is no limitation as to the type of case which may be referred to the Panel at the request of the complainant.

(2) No Review Request by Complainant: Without a complainant's request, only the following cases may be referred to the Panel:

- a. A "Critical Incident" as defined in this Article;
- b. The appearance of a pattern of serious misconduct by the Officer involved;
- c. The appearance of a pattern of Department-wide misconduct;
- d. The appearance of serious official misconduct by one or more members of the Department;
- e. The appearance of bias based misconduct; or

f. The appearance of issue(s) to be addressed by policy, procedure, or training recommendations.

f) Nature of Proceedings

(1) The review of any case by the Panel shall not be conducted as a hearing or trial. Except for the receipt of public input/communications as provided by this Section or an Independent Investigation authorized by this Article, the Panel shall not gather evidence, contact or interview witnesses, or otherwise independently investigate a complaint. The Panel shall not have the authority to subpoena witnesses. There shall be no administrative requirement, including but not limited to an order from the City Manager or the Department, that a Police Officer appear or present evidence to the Panel. The Panel shall immediately forward any information or evidence of which it becomes aware to the Chief of Police through the Police Monitor.

(2) A quorum shall be established prior to beginning the review of any case by the Panel.

(3) Not less than five (5) business days prior to a Panel meeting, the OPM shall provide the Internal Affairs Division and the individual designated by the President of the ASSOCIATION as the Panel liaison, with a copy of the Panel meeting agenda. The Panel shall not take action upon or receive public input/communications concerning any case or issue not listed as an agenda item. Citizens wanting to address the Panel during the public input/communications section of the meeting must complete a speaker sign-up card listing the agenda item they wish to address, and will be limited to addressing the topic identified. The Internal Affairs Division shall promptly notify any Officer who is the subject of a complaint listed as an agenda item as to the scheduled Panel meeting. Notice of special meetings shall be handled in a similar manner, unless circumstances require a shorter notice, in which case the notice shall be issued as soon as the special meeting is scheduled.

(4) By virtue of its purely advisory role, the Panel is not a governmental body and is not subject to the Open Meetings Act. Those portions of the meeting during which public input/communication is accepted shall be open to the public and recorded by video and audio.

g) Access to Confidential Information

(1) Panel members shall have full access to all administrative investigative and disciplinary files necessary to perform their functions under this AGREEMENT. Panel members may ask questions and obtain specific facts, details and information from the Police Monitor, IAD, or the Chief's office. As part of such access, the Police Monitor shall make available to individual Panel members all IAD case files scheduled for review pursuant to subsection "f (3)" above. Individual Panel members may review the IAD case file for up to eight (8) hours, at the Police Monitor's office and in the presence of a member of the Monitor's staff. This review opportunity may occur before the Panel's private session and/or after the Panel's public session regarding such case. The Monitor's Office may hold a conference call with the Panel in which the Panel is given a preview of the general nature of the cases that will appear at the next Panel meeting. The focus of the discussion shall not be on the specific facts of any particular case. The

purpose of this conference call is so that the Panel members may decide if they need to review the file prior to the meeting. The prohibitions and restrictions in Section 8 of this Article apply to any confidential information viewed by Panel members during this review opportunity. Panel members shall not copy or remove any portion of the file. The Police Monitor shall be responsible for security of the file.

(2) In an effort to ensure the Panel has a more complete view of the types of cases the APD reviews, the Police Monitor shall meet with the Panel twice a year to provide them an overview of APD activity up to that point in the calendar year.

h) Private Case Briefing Session

(1) Prior to receiving any communication from the complainant or any other public input/communications, the Panel may meet in Private Session to be briefed concerning the facts of the particular case to be reviewed. The Police Monitor and/or the IAD representative shall present to the Panel the information obtained from the IAD investigation. The duties of the IAD representative may be performed by others, including the chain of command, training staff, and/or forensics. Members of the Panel may be provided with READ ONLY electronic access to all or part of the IAD files, or the physical files themselves, during these presentations.

(2) An APD Officer designated by the President of the ASSOCIATION and one individual from the Internal Affairs Division shall be present during the Panel Private Session case briefing, subject to the following provisions:

a. The Association's Representative will not participate in the briefing and is present only as an observer, with the following exceptions:

(i) The Association Representative may request that the Police Monitor allow the representative to present information relevant to a case before the Panel.

(ii) A Panel member may request that the Association Representative present information relevant to a case before the Panel.

(iii) Any information provided by the Association Representative shall be presented in a neutral manner.

b. The Association Representative may not be involved in the case as a witness, investigator, relative, or officer in the chain of command.

c. Information in the possession of the Association Representative as a result of participation in such briefing shall not be disclosed or revealed other than as necessary as a part of official Association business in monitoring and enforcing this AGREEMENT, or in the normal course of dispute resolution processes under this AGREEMENT.

(3) During any private Panel briefing, the presenter should exercise discretion and omit information from the briefing that the Police Monitor deems to be irrelevant to the citizen's

complaint, as well as information of a highly personal nature that would constitute an unwarranted invasion of an individual's personal privacy interests.

(4) In addition to those individuals involved in briefing the Panel, and the Association Representative, the Assistant Police Monitor, the staff member from the Office of the Police Monitor that is assigned to the case, and a designated attorney from the City Attorney's Office may be present during the Private Case Briefing Session. No other individual may be present unless the Panel requests further information.

i) Public Session and Comments

After the Private Session, the Panel shall meet in Public Session to receive public input/communications. During the public session, the Police Monitor shall take precautions to prevent discussion of the facts of the particular case and to prevent the Public Session from being used as a forum to gather evidence, interview witnesses, or otherwise independently investigate a complaint. Any individual who indicates that he has new or additional evidence concerning the particular case shall be referred to the Chief of Police or his designee. The rules that apply to citizen communications with the City Council shall apply to the public session of the Panel meetings. The Police Monitor, in consultation with the Panel, shall set the time limits for such proceedings, and shall be responsible to prevent discussion of matters not on the Session agenda.

j) Communication from Complainant and/or Officer

(1) Public Session:

Subject to the provisions of Subsection "h," the Complainant shall be permitted to address the Panel in the Public Session. The Officer who is the subject of the complaint may, but is not required, attend and listen to the address by the complainant, and may also address the Panel.

(2) Private Session:

If the Complainant articulates relevant privacy or safety concerns, the Police Monitor may allow the complainant to address the Panel in a private session. The Officer who is the subject of the complaint may, but is not required, attend and listen to the address by the complainant, and may also address the Panel. If the complainant is anxious or intimidated by the presence of the Officer, the Panel shall videotape the complainant's address to the Panel, and allow the Officer to view and respond to the taped statement outside the complainant's presence. Other than the complainant and the responding police officer, only those persons authorized to attend the Panel Private case briefing may be present during this private Panel Session.

k) Deliberations

After receiving public input, if any, the Panel shall discuss the particular case under review in private session. The Police Monitor and/or the Assistant Police Monitor, the staff member from the Office of the Police Monitor that is assigned to the case, and a designated attorney from the City Attorney's Office may be present during such discussion. No other individual may be

present unless, the Panel requests further information; if the Panel does so, the Police Monitor or Assistant Police Monitor, and the IA Commander or Lieutenant, must also be present.

1) Action and Recommendations

(1) The Panel shall not take action or make recommendations not authorized by this Article. At the conclusion of the review process set forth above, the Panel, upon a majority vote of its total members, may make the following written recommendations to Chief of Police:

- a. Further investigation by the Department is warranted;
- b. Department policies warrant review and/or change;
- c. An “Independent Investigation” is warranted; or
- d. A non-binding recommendation on discipline, limited to cases involving a “critical incident” as defined in this Article.

(2) The final decision as to appropriate discipline is within the sole discretion of the Chief of Police, subject to the Officer’s right of appeal of any discipline imposed as provided by Chapter 143 of the Texas Local Government Code and this AGREEMENT. Neither the OPM employees nor individual members of the Panel shall publicly express agreement or disagreement with the final disciplinary decision of the Chief, other than as set forth in the written recommendation. A deliberate violation of this provision shall be subject to the dispute resolution process set forth in Section of this Article, but a Panel member shall be permanently removed from the Panel upon a violation of this standard.

(3) Members must attend the meeting and hear the merits of the case in order to vote. The Panel’s recommendations shall be reduced to writing. The Panel’s written recommendations shall explain the Panel’s issues(s) or concern(s).

(4) The Police Monitor shall consult with the Panel in formulating any recommendations to the Chief of Police.

Section 5. Independent Investigation

a) The Chief of Police and the City Manager retain all management rights to authorize an Independent Investigation concerning police conduct.

b) If the Panel, pursuant to Section 4(1)(1)(c), recommends that an Independent Investigation is warranted, the Panel shall provide a public report setting forth the basis and concerns of the Panel supporting any recommendation for an Independent Investigation. In addition, the Panel shall provide a public report setting forth the Panel’s conclusions and recommendations after its review of any Independent Investigation.

Section 6. Public Release of Information

a) Documents Subject to and Timing of Public Release:

The provisions of Section 143.089 (g) of the Texas Local Government Code are expressly modified to the extent necessary to permit public release of the following documents in the manner prescribed by this Section:

- 1) A Panel recommendation that Department policies warrant review and/or change, as authorized by Section 4(l)(1)(b). Unless made confidential by a law other than Section 143.089(g) of the Texas Local Government Code, such recommendations shall be subject to public release, in their entirety, upon delivery to the Chief of Police.
- 2) A Panel recommendation that further investigation by the Department is warranted, as authorized by Section 4(l)(1)(a). Unless made confidential by a law other than Section 143.089(g) of the Texas Local Government Code, such recommendations shall be subject to public release, in their entirety, only after the Police Chief's final disciplinary decision as to the subject Officer(s), and only if the Police Chief imposes discipline.
- 3) A Panel recommendation that an Independent Investigation is warranted, as authorized by Section 4(l)(1)(c). Unless made confidential by a law other than Section 143.089(g) of the Texas Local Government Code, such recommendations shall be subject to public release, in their entirety, only after the Police Chief's final disciplinary decision as to the subject Officer(s), regardless of whether discipline is imposed.
- 4) A Panel report setting forth the basis and concerns of the Panel supporting any recommendation for an Independent Investigation, as authorized by Section 5(b). Unless made confidential by a law other than Section 143.089(g) of the Texas Local Government Code, such recommendations shall be subject to public release, in their entirety, only after the Police Chief's final disciplinary decision as to the subject Officer(s), regardless of whether discipline is imposed.
- 5) A Panel report setting forth the Panel's conclusions and recommendations after its review of any Independent Investigation, as authorized by Section 5(b). Unless made confidential by a law other than Section 143.089(g) of the Texas Local Government Code, such recommendations shall be subject to public release, in their entirety, only after the Police Chief's final disciplinary decision as to the subject Officer(s), regardless of whether discipline is imposed.
- 6) A panel recommendation on discipline in a case involving a critical incident, as authorized by Section 4(l)(1)(d). Unless made confidential by a law other than Section 143.089(g) of the Texas Local Government Code, such recommendations shall be subject to public release, in their entirety, only after the Police Chief's final disciplinary decision as to the subject Officer(s), regardless of whether discipline is imposed.

7) The body of a final report (but not exhibits) prepared by an investigator who conducts an Independent Investigation authorized by the Chief of Police or City Manager concerning police conduct, whether or not recommended by the Panel. Unless made confidential by a law other than Section 143.089(g) of the Texas Local Government Code, the body of such report shall be subject to public release, in its entirety, only after the Police Chief's final disciplinary decision as to the subject Officer(s), regardless of whether discipline is imposed.

It is expressly understood and agreed by the parties that any recommendation and/or report released pursuant to this Section may contain information which would otherwise be made confidential by Section 143.089(g) of the Texas Local Government Code.

b) The public release of information authorized in this AGREEMENT will be reviewed by the City of Austin Law Department to insure compliance with this AGREEMENT and to determine whether the release of such information may be prohibited by any other law.

c) Unauthorized Release of Confidential Documents/Information:

(1) Except as permitted by this AGREEMENT, employees of the OPM and members of the Panel shall not publicly comment on the specifics of pending complaints and investigations prior to a Panel decision. All public comments and communications by the OPM shall be factual and demonstrate impartiality to individual police officers, the Austin Police Department, the Austin Police Association, employees of the City of Austin, residents of the City of Austin, and community groups.

(2) Should a person participating on a Panel make public statements which, to a reasonable observer, would be perceived to express or demonstrate a position, bias, or prejudgment on the merits of a particular case that is under investigation or subject to review, prior to the completion of the citizen panel process for that case, such person will not be allowed to participate in the review, deliberation, or drafting of recommendations concerning that case. This provision does not prohibit the Panel or an individual Panel member from making generic, non-case related public statements about the Austin Police Department, or from providing information about the process, which does not appear to prejudge the merits, or demonstrate a bias on the case. In the event of a deliberate violation of this standard, the Panel member shall be permanently removed from the Panel as set forth below.

(3) No public comment or communication (including but not limited to oral or written statements, reports, newsletters, or other materials made, released, published or distributed) by the OPM or Panel members will make reference to or identify an Officer by name, unless such release is then permitted by law, or the Officer's name has become public as a matter of fact by lawful or authorized means, or by the Officer's own release. Public comments or communications by the OPM and the Panel shall conform to state and federal law and this AGREEMENT regarding confidentiality, and shall not contain information that is confidential or privileged under this AGREEMENT or state, federal or common law.

(4) All OPM written publications shall be provided to the APD and the APA simultaneously with distribution to the public.

(5) Any deliberate release of information that is made confidential by law or by this AGREEMENT shall result in the permanent removal of the offending member from the Panel. Any deliberate premature release of information before it may properly be released likewise will result in the permanent removal of the offending member from Panel.

Section 7. Dispute Resolution

a) Complaints concerning the conduct of OPM employees shall be filed with the Police Monitor, or if the complaint concerns the personal conduct of the Police Monitor, shall be filed with the City Manager. If not resolved at the first level, a fact finder shall be appointed to review relevant materials and take evidence to reach written findings of fact, which shall be expedited for final resolution within two weeks after appointment. The fact finder shall be appointed by striking an AAA list, if the parties do not otherwise agree on a fact finder. Upon conclusion of the fact finding, and after review and evaluation of the fact finder's report, the Police Monitor (or City Manager if the complaint concerns the personal conduct of the Police Monitor) shall make a decision. The final decision shall be made by the City Manager.

b) Complaints concerning the conduct of Panel members shall be filed with the City Manager. If a signed complaint is filed alleging specific comments by a Panel member that violate the standards in subparagraph (c) above, the Panel's consideration shall be postponed or the particular Panel member shall not participate, until the matter is finally resolved. A complaint may not be based on statements or conduct previously raised and found insufficient for disqualification. Only one of such Panel members may be temporarily disqualified under this provision on a particular case. The City Manager shall promptly determine the complaint. The ASSOCIATION may appeal from the decision of the City Manager through the expedited arbitration process in this AGREEMENT. If two (2) consecutive complaints are found insufficient on a particular Panel member, subsequent complaints on that Panel member shall not result in temporary removal, but upon final determination that there has been a violation, such member shall be subject to permanent removal. Nothing shall prevent the Chief from taking disciplinary action within the statutory time frame, under the provisions of Chapter 143, as modified by this AGREEMENT.

Section 8. Access to Section 143.089(g) Files

a) Information concerning the administrative review of complaints against Officers, including but not limited to Internal Affairs Division files and all contents thereof, are intended solely for the Department's use pursuant to Section 143.089(g) of the Texas Local Government Code (the 143.089(g) file). All records of the Police Monitor's Office that relate to individual case investigations and the APD 143.089(g) file, although same are not APD files or records, shall have the same statutory character in the hands of the Police Monitor, and shall not be disclosed by any person, unless otherwise authorized by law or this AGREEMENT. Public access to such information is strictly governed by this AGREEMENT and Texas law. To the extent necessary to perform their duties, individuals involved in the Citizen Oversight process are granted a right of access to the information contained within the 143.089(g) files of Officers to the extent authorized by this AGREEMENT.

b) Individuals involved in the Citizen Oversight process shall not be provided with information contained within a personnel file, including the 143.089(g) file of an Officer, that is

made confidential by a law other than Chapter 143 of the Texas Local Government Code, such as records concerning juveniles, sexual assault victims, and individuals who have tested positive for HIV. All persons who have access to IAD files or investigative information by virtue of this AGREEMENT shall not be provided with access to any records of criminal investigations by the APD unless those materials are a part of the IAD administrative investigation file.

c) All individuals who have access by virtue of this AGREEMENT to IAD files or investigative information, including the information contained within the 143.089(g) files of Officers, shall be bound to the same extent as the Austin Police Department and the City of Austin to comply with the confidentiality provisions of this AGREEMENT, Chapter 143 of the Texas Local Government Code, and the Texas Public Information Act. All such individuals shall further be bound to the same extent as the Austin Police Department and the City of Austin to respect the rights of individual Police Officers under the Texas Constitution and the Fourth, Fifth, and Fourteenth Amendments to the U.S. Constitution, including not revealing information contained in a compelled statement protected by the doctrine set forth in *Garrity v. New Jersey*, 638 U.S. 493 (1967), and *Spevack v. Klein*, 385 U.S. 511 (1967).

d) A breach of the confidentiality provisions of this AGREEMENT and/or Chapter 143 of the Texas Local Government Code by any individual involved in Citizen Oversight:

(1) Shall be a basis for removal from office;

(2) May subject the individual to criminal prosecution for offenses including, but not limited to Abuse of Official Capacity, Official Oppression, Misuse of Official Information, or the Texas Public Information Act; and/or

(3) May subject the individual to civil liability under applicable State and Federal law.

e) The confidentiality provisions of this AGREEMENT, Chapter 143 of the Texas Local Government Code, and the Texas Public Information Act, are continuous in nature. All individuals involved in Citizen Oversight are subject to these confidentiality provisions even after their association with the Oversight process has terminated.

f) Following any review of an alleged violation of the confidentiality provisions of this AGREEMENT, the City Manager's office will provide information about the outcome of that review to any Officer(s) directly affected by the alleged violation.

Section 9. Use of Evidence from the Citizen Oversight Process in Disciplinary Appeal

Opinions or recommendations from individuals involved in Citizen Oversight in a particular case may not be used by a party in connection with an appeal of any disciplinary action under the provisions of Chapter 143 of the Texas Local Government Code and this AGREEMENT. No party to an arbitration or Civil Service proceeding may use or subpoena any member of the Citizen Review Panel or the Police Monitor (unless the Police Monitor took the complaint in the relevant case) as a witness at an arbitration or Civil Service proceeding including, but not limited to live or deposition testimony, which concerns their duties or responsibilities in the oversight process or their opinions or recommendations in a particular case. This provision shall not prevent any testimony for evidentiary predicate.

Section 10. Partial Invalidation and Severance

In the event that a Court Order, Judgment, Texas Attorney General Opinion, or arbitration decision, which is final and non-appealable, or which is otherwise allowed to take effect, which order, judgment, opinion, or decision holds that the right of access to the information contained within the 143.089(g) files of Officers granted by this Article or the public dissemination of information pursuant to this Article, results in “public information” status under the Texas Public Information Act of the information contained within the 143.089(g) files of an Officer, the provision or provisions resulting in such a change in the status of the 143.089(g) file shall be invalidated and severed from the balance of this AGREEMENT.

Section 11. Remedies

a) Benefit of the Bargain

The CITY expressly retains its right and ability to proceed with the determination of whether or not police misconduct occurred and the authority of the Chief to impose disciplinary action. The ASSOCIATION recognizes the fact that such reservations are essential to this AGREEMENT. No dispute concerning the operation and function of the Police Monitor’s Office or the Panel shall impair or delay the process of the Chief’s investigation and determination of whether or not police misconduct occurred and the degree of discipline, if any, to impose. This includes internal dispute resolution procedures in this AGREEMENT, any grievance process or arbitration, and any litigation over such issues. In other words, any such dispute resolution processes may proceed, as set forth in this contract or by law, but the disciplinary process may likewise and simultaneously proceed to its conclusion without delay. The statutory time period for the Chief of Police to take disciplinary action against an Officer shall be tolled to the extent of any period in which a court order, injunction, or TRO, obtained by the Officer involved or the ASSOCIATION on behalf of the Officer, halts the Department’s investigative or disciplinary process. In no event will the actual time exceed 180 calendar days. The parties agree that the processes in this AGREEMENT, together with the remedies set forth and the procedural protections and rights extended to Officers in this AGREEMENT are adequate remedies at law for all disputes arising under this Article.

b) Expedited Arbitration

The parties have agreed to expedited arbitration for all unresolved grievances related to the application or interpretation of this Article in order to achieve immediate resolution and to avoid the need for court intervention in equity. Such arbitrations shall be conducted pursuant to the Expedited Labor Arbitration Procedures established by the American Arbitration Association (“AAA”), and in effect at the time of the dispute. To be appointed, the arbitrator must be available to hear the arbitration within thirty (30) calendar days of selection and a decision shall be made within one (1) week of the hearing. The parties agree to create a list of pre-approved arbitrators. Failing same, or in the absence of an available arbitrator from such pre-approved list, the arbitrator designated by the AAA shall be required to be licensed as an attorney in the State of Texas. The parties both agree that the arbitrator has the discretion to receive and hear issues and testimony by written submission or phone conference, but may also require live testimony where appropriate.



OFFICE OF THE POLICE MONITOR

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**[www.austintexas.gov/
department/police-monitor](http://www.austintexas.gov/departments/police-monitor)**

The Police Monitor's Office is the main location for accepting complaints filed by members of the public against police officers. To file a complaint with the Office of the Police Monitor, the public can contact our office by telephone, facsimile, mail, email, or in person. The Police Monitor or a member of the Police's Monitor's office will conduct an initial interview with the complainant and will explain the oversight and investigative processes. The Internal Affairs Division of the Austin Police Department or the subject officer's chain of command will conduct an investigation. The Office of the Police Monitor will participate in the APD investigation. The Office of Police Monitor will make policy recommendations to APD. Upon conclusion of the investigation, the complainant will be notified in writing of the outcome.